



महाराष्ट्र शासन राजपत्र

भाग दोन-संकीर्ण सूचना व जाहिराती

वर्ष ४, अंक ३८]

गुरुवार ते बुधवार, सप्टेंबर २०-२६, २०१८/भाद्र २९-अश्विन ४, शके १९४०

[पृष्ठे ४९, किंमत : रुपये १५.००

प्राधिकृत प्रकाशन

संकीर्ण सूचना व जाहिराती

IN THE HIGH COURT AT BOMBAY

IN INSOLVENCY

OFFICIAL ASSIGNEE'S REPORT No. 03 OF 2017

WITH

NOTICE OF MOTION No. 08 OF 2018

WITH

OFFICIAL ASSIGNEE'S REPORT No. 04 OF 2017

WITH

OFFICIAL ASSIGNEE'S REPORT No. 09 OF 2017

WITH

NOTICE OF MOTION No. 05 OF 2018

WITH

NOTICE OF MOTION No. 09 OF 2018

IN

INSOLVENCY PETITION No. 39 OF 2001

No. I.R. 351 Of 2018

Re. .—Sumanth Chandar Bolar of Mumbai, Indian Inhabitant Residing at C-504, Amza Jayraj Nagar, Borivali (W.), Mumbai 400 092.

...Insolvent.

Notice is hereby given that the Order of Adjudication made herein against the Insolvents on 5th February 2002 abovenamed is annulled on 17th day of July, 2018 under section 21(1) of the Presidency Towns Insolvency Act, 1909 on the ground of full payment.

Dated this 31st day of August, 2018.

DILIP R. TALEKAR,
Insolvency Registrar,
High Court, Bombay.

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL
OF NAVSARI, AT AHWA-DANGS, GUJARAT**

M.A.C.P. No. 71 OF 2014

Exh. 09

Applicant : RATANBEN PIDIYABHAI PATEL

Residence : Bhinar, Tal. Vansda, Dist. Navsari.

Versus

Opponent -(3) : ICICI-LOMBARD GERNERAL INSURANCE CO. LTD.

Address :— Lombard House, 414-Vir Savarkar Marg, Near Siddhi Vinayak
Tempale, Prabhadevi, Mumbai 400 025.

Notice

To,

The Opponent No. 3.

You are hereby informed that, whereas applicant has filed the above numbered Motor Accident Claim Petition against you under sections 166 of Motor Vehicle Act, 1988 claiming compensations of Rs. 1,17,200.00 (Rupees One Lakh Seventeen Thousand Two Hundred only). You are therefore, hereby noticed to appear before this Tribunal in person or through your pleader on 19th October of 2018 at 10-30 a.m. to answer the claim petition and further you are hereby directed to file your written statement of your defence and to produce all documents in your possession or power upon which you base your defence.

Take Notice that in default of your appearance on the aforesaid date, the claim petition will be heard and determined in your absence.

Given under my hand and seal of the Tribunal on 29th August 2018.

By Order,

A. N. MISTRY

Superintendent,
M.A.C.T.(AUXI.),
Navsari, Camp-Vansda.

MUMBAI PORT TRUST
TRAFFIC DEPARTMENT, AUCTION SALE BRANCH

Notice of Sale

No. T.M./S.W./X/3720/2017-18

The undermentioned goods lying uncleared for over two months from the date of landing will be sold by e-Tender-cum-e-Auction Sale on 1st October 2018 or on any other subsequent date in conformity with the Provisions of section 61 and 62 of Major Port Trusts Act, 1963, if the goods are not cleared within ten days from the date of this Notice.

Page No.: 1

No. and kind of Pkgs., Contents and to whom consigned

Lying at : 4MOD (AP/00038) 2 PLT CELLOGUM MIX , ANTIFLOR, PLUXCOMPACT, STABYL. Con.: VICTORY INTERNATIONAL PVT. LTD. MAC-NELS CONTAINER LINES
Lying at : 1MOD (AP/00062) 1 CON 62 SPINE PHYSIOTHERAPY MASSAGE BED SPARE PARTS PU LEATHER COVERS Con.: ANWANTAGE COLLECTION PRIVATE LTD. RCL AGENCIES (INDIA) PVT. LTD.
Lying at : NSWH2 (AP/00068) 6 PKG 6 PKG OF FABRIC MATERIAL IN A LOOSELY PLASTIC PACKED CONDITION. Con.: EASTERN HERITAGE. MAC-NELS CONTAINER LINES MAC-NELS CONTAINER LINES
Lying at : NSWH2 (AP/00069) 1 PKG LAMP Con.: LIGHT KRAFTS. MAC-NELS CONTAINER LINES MAC-NELS CONTAINER LINES
Lying at : NSWH2 (AP/00070) 10 CAS ELEVATOR TRACTION MACHINE- 5 PCS, MACHINE CASE 5 PCS. Con.: TRYME SOLUTION INC SCF EMU LINES PVT.LTD
Lying at : 1MOD (AP/00071) 1 CRT 1 CRATES STC CASTLE BY GETINGE STEAM STERILIZER AND WASHER DISINFECTOR. Con.: MERCARGO LOGISTICS PVT.LTD. EMU LINES PVT.LTD EMU LINES PVT.LTD
Lying at : 6ID (AP/00072) 1 CAS W/C (WOODEN CASE)-1 CASE : SIZE: 180CM X 90CM X 125CM. Con.: SMS INDIA PVT.LTD. UNITED LINER SHIPPING SERVICES LLP

Total Lots : 7

TRAFFIC MANAGER

Serial No. M-18168

**PROPOSED RULES OF METROPOLITAN CLEARING CORPORATION OF INDIA LIMITED
(COMMODITY DERIVATIVES SEGMENT)**

Subject to SEBI's (Securities and Exchange Board of India) approval, it is proposed to make the following Rules for Commodity Derivatives segment of Metropolitan Clearing Corporation of India Limited. The proposed Rules are published for information/public comments/ criticism. Any person having any comments/ observations on the proposed Rules may send the same in writing to the undersigned at Metropolitan Clearing Corporation of India Limited, 4th Floor, Vibgyor, Tower, Plot No C 62, G Block, Opp. Trident Hotel, Bandra Kurla Complex, Bandra (E), Mumbai – 400098 or through email to secretarial@mcclar.in within fifteen days from the date of publication. The comments/ observations received after the fifteenth day will not be considered and the draft will be taken into consideration immediately after the expiry of fifteen days.

**PROPOSED RULES OF METROPOLITAN CLEARING CORPORATION OF INDIA LIMITED
(COMMODITY DERIVATIVES SEGMENT)**

**CHAPTER I
DEFINITIONS**

1. **BOARD**
"Board" means Board of Directors of Metropolitan Clearing Corporation of India Limited.
2. **BYE LAWS**
Unless the context indicates otherwise, "Bye Laws" means the Bye Laws of the Metropolitan Clearing Corporation of India Limited for the time being in force.
3. **CLEARING BANK(S)**
"Clearing Bank(s)" is such bank(s) as the Clearing Corporation may appoint to act as a funds settling agency, for the collection of margin money for all deals cleared through the Clearing Corporation and any other funds movement between Clearing Members and the Clearing Corporation and between Clearing Members as may be directed by the Clearing Corporation from time to time.
4. **CLEARING CORPORATION**
"Clearing Corporation" means Metropolitan Clearing Corporation of India Limited.
5. **CLEARING MEMBER**
"Clearing Member" means a member of the Clearing Corporation and includes all categories of Clearing Members as may be admitted as such by the Clearing Corporation but does not denote the shareholder of the Clearing Corporation.
6. **CLEARING SEGMENTS**
"Clearing Segments" means the different segments or divisions for clearing and settlement of deals as may be classified by the relevant authority from time to time.
7. **DEALS**
"Deals" means, unless the context indicates otherwise, deals which are admitted to be cleared and settled through the Clearing Corporation.
8. **REGULATIONS**
"Regulations" means Regulations of the Clearing Corporation for the time being in force and includes business rules, code of conduct and such other procedures and regulations, circulars, directives and orders as issued by the relevant authority from time to time for the operations of the Clearing Corporation.
9. **RELEVANT AUTHORITY**
"Relevant Authority" means the Board or such other authority as specified by the Board from time to time as relevant for a specified purpose.
10. **SETTLEMENT GUARANTEE FUND**
"Settlement Guarantee Fund" means a fund established and maintained in accordance with the relevant provisions of the Bye Laws.
11. **TRADING MEMBER**
"Trading Member" means any person admitted as a member in any Stock Exchange in accordance with the Rules, Bye Laws and Regulations of that Exchange.

Note: The terms defined above shall mean the same when used in lower case in the Bye Laws and Regulations, unless the context indicates otherwise.

**CHAPTER II
BOARD**

1. The Board is empowered to organise, maintain, control, manage, regulate and facilitate the operations of the Clearing Corporation and all activities of the Clearing Members of the Clearing Corporation.

2. The Board is empowered to make Rules, Bye Laws and Regulations from time to time, for all or any matters relating to the conduct of business of the Clearing Corporation, the business and transactions of Clearing Members, between Clearing Members inter-se as well as the business and transactions between Clearing Members and persons who are not Clearing Members, and to control, define and regulate all such transactions and dealings and to do such acts and things which are necessary for the purposes of the Clearing Corporation.
3. Without prejudice to the generality of the foregoing, the Board is empowered to make Regulations for all or any of the following matters:
 - (1) conduct of business of the Clearing Corporation;
 - (2) appointment and dissolution of Committee or Committees for any purpose of the Clearing Corporation;
 - (3) manner of operations and interfacing with exchanges, custodians, depository, Warehouses and Warehouse Service Providers, clearing bank(s) and such other service providers that the Clearing Corporation may appoint or deal with for the purpose of accomplishing its functions as a Clearing Corporation in relation to deals executed by Trading Members on the Trading Platform of Concerned Exchanges;
 - (4) determine different categories of Clearing Members that may be admitted to the Membership of the Clearing Corporation;
 - (5) norms, procedures, terms and conditions for admission to membership of the Clearing Corporation;
 - (6) conditions, levy for admission or subscription for admission or continuance of Clearing Membership of the Clearing Corporation;
 - (7) conduct of Clearing Members with regard to the business of the Clearing Corporation;
 - (8) prescription, from time to time, of capital adequacy and other norms which shall be required to be maintained by different categories of Clearing Members;
 - (9) charges payable by Clearing Members for business transacted through the different clearing segments of the Clearing Corporation as may be laid down from time to time;
 - (10) maintenance of records and books of accounts by Clearing Members as may be specified from time to time;
 - (11) investigation of the financial condition, business conduct and dealings of the Clearing Members;
 - (12) prescription from time to time, and administration of penalties, fines and other consequences, including suspension/expulsion of Clearing Members from the different Clearing segments of the Clearing Corporation for violation of any requirements of the Rules, Bye Laws and Regulations and the codes of conduct;
 - (13) disciplinary action/procedures against any Clearing Member;
 - (14) penalties for non compliance with or contravention of the Bye Laws, Rules and Regulations of the different Clearing Segments of the Clearing Corporation or of general discipline of the Clearing Corporation, including expulsion or suspension of the Clearing Members;
 - (15) declaration of any Clearing Member as a defaulter or suspension or resignation or expulsion from Clearing Membership of the Clearing Corporation and consequences thereof;
 - (16) Norms relating to surrender, resignation or withdrawal from the Membership from one or more of the Clearing Segments or of the Clearing Corporation itself and norms for re-admission of a Member.
 - (17) Norms relating to restrictions that may be required to be placed on the Clearing and Settlement activities of a Clearing Member and those relating for withdrawing such restrictions so placed.
 - (18) Norms for accreditation of Warehouses and Warehousing Service Providers (also referred to as the WSP) relating to financial status, governance of the WSP, physical facilities and infrastructure at the sites, existence of internal audit and supervision of its activities, insurance cover that is available to the WSP.
 - (19) such other matters in relation to the Clearing Corporation as may be prescribed under the provisions of the Articles of Association, Bye Laws or these Rules or as may be necessary or expedient for the organisation, maintenance, control, management, regulation and facilitation of the operations of the Clearing Corporation.
4. The Board is empowered to delegate, from time to time, to Executive Committee(s) or any other committee(s) or to the Managing Director or to any person, such of the powers vested in them and on such terms as they may think fit, to manage all or any of the affairs of the Clearing Corporation and from time to time, to revoke, withdraw, alter or vary all or any of such powers.

5. The Board may, from time to time, constitute one or more committees comprising of members of the Board or such others as the Board may in its discretion deem fit or necessary and delegate to such committees such powers as the Board may deem fit and the Board may from time to time revoke such delegation.
6. The Board shall have the authority to issue directives from time to time to the Executive Committee or any other Committees or any other person or persons to whom any powers have been delegated by the Board. Such directives issued in exercise of this power, which may be of policy nature or may include directives to dispose off a particular matter or issue, shall be binding on the concerned Committee(s) or person(s).
7. The Board is empowered to vary, amend, repeal or add to Bye Laws, Rules and Regulations of the Clearing Corporation framed by it.
8. The Members of the Board and of such committees as may be identified by the Board shall adhere to the Code of Conduct as may be prescribed by the Board from time to time.

CHAPTER III EXECUTIVE COMMITTEE

1. CONSTITUTION

One or more Executive Committee(s) may be appointed by the Board for the purposes of managing the day to day affairs of the different segment(s) of the Clearing Corporation. The Board may decide on the constitution, duration and powers of the Executive Committee(s), nomination and vacation of the nominees from the Executive Committee(s) and appointment of office bearers and rules and procedures for the functioning of the Executive Committee(s).

2. POWERS OF EXECUTIVE COMMITTEE

- (1) The Board may delegate from time to time to the Executive Committee(s) such of the powers vested in them and upon such terms as they may think fit, to manage all or any of the affairs of the Clearing Corporation and from time to time, to revoke, withdraw, alter or vary all or any of such powers.
- (2) The Executive Committee(s) shall be bound and obliged to carry out and implement any directives issued by the Board from time to time and shall be bound to comply with all conditions of delegation and limitations on the powers of the Executive Committee(s) as may be prescribed.

CHAPTER IV CLEARING MEMBERSHIP

1. MULTIPLE CATEGORIES

The rights, privileges duties and responsibilities of a Clearing Member shall be subject to and in accordance with the Rules, Bye Laws and Regulations of the Clearing Corporation. The relevant authority may define and admit more than one category of Clearing Member for the same segment or for different segments and may specify different norms including eligibility, admission and cessation of membership for each type of Clearing Members.

2. ADMISSION AND FEES

- (1) The relevant authority may specify different categories of Clearing Members and requirements regarding qualification, networth, infrastructure and other relevant norms for each such category.
- (2) The relevant authority may specify pre-requisites, conditions, formats and procedures for application for admission, termination, re-admission, etc. of Clearing Members to all or any of the segments of the Clearing Corporation. The relevant authority may, at its absolute discretion, refuse permission to any applicant to be admitted as Clearing Member to all or any of the segments.
- (3) Such fees, security deposit, contribution and other money as are specified by the relevant authority would be payable on or before admission as Clearing Member and for continued appointment thereof.

3. ELIGIBILITY

- (1) The following persons shall be eligible to become Clearing Members of the Clearing Corporation:
 - (a) Individuals;
 - (b) Registered Firms;
 - (c) Bodies corporate; and
 - (d) Companies as defined in the Companies Act, 1956/2013
 - (e) any other entity as permitted by SEBI
- (2) No person shall be admitted as a Clearing Member of the Clearing Corporation if such proposed member:
 - (a) is an individual who has not completed 21 years of age;

- (b) has been adjudged bankrupt or a receiving order in bankruptcy has been made against the person or the person has been proved to be insolvent even though he has obtained his final discharge;
- (c) has compounded with his creditors for less than full discharge of debts;
- (d) has been convicted of an offence involving a fraud or dishonesty;
- (e) is a body corporate which has committed any act which renders it liable to be wound up under the provisions of the law;
- (f) is a body corporate which has had a provisional liquidator or receiver or official liquidator appointed to the person;
- (g) has been at any time expelled or declared a defaulter by any other stock exchange or clearing corporation;
- (h) has been previously refused admission to Clearing Membership of the Clearing Corporation unless the period of one year has elapsed since the date of rejection

4. ADDITIONAL ELIGIBILITY CRITERIA

No person shall be eligible to be admitted to the Clearing Membership of the Clearing Corporation unless the person satisfies such additional eligibility criteria as the Board or relevant authority may prescribe from time to time for different classes of Clearing Members and clearing segments;

Provided however that the relevant authority may waive compliance with any or all of the admission conditions and at its discretion waive the requirements set out as above, if it is of the opinion that the person seeking admission is considered by the relevant authority to be otherwise qualified to be admitted as a Clearing Member by reason of his means, position, integrity, knowledge and experience of business in securities.

5. ADMISSION

- (1) Any person desirous of becoming a Clearing Member shall apply to the Clearing Corporation for admission to the Clearing Membership of the relevant segment of the Clearing Corporation. Every application shall be dealt with by the relevant authority who shall be entitled to admit or reject such applications at its discretion.
- (2) The application for admission of Clearing Members to each segment shall be made in such formats as may be specified by the relevant authority from time to time.
- (3) The application shall have to be submitted along with such fees, security deposit and other monies in such form and in such manner as may be specified by the relevant authority from time to time.
- (4) The applicant shall have to furnish such declarations, undertakings, certificates, confirmations and such other documents or papers as may be specified from time to time by the relevant authority.
- (5) The relevant authority shall have the right to call upon the applicant to pay such fees or deposit such additional security in cash or kind, deposit or contribution to Settlement Guarantee Fund and any other fund that may be maintained by the Clearing Corporation from time to time, to furnish any additional guarantee or to require contribution to computerisation fund, training fund or fee as the relevant authority may prescribe from time to time.
- (6) The relevant authority may provisionally admit the applicant to Clearing Membership provided that the applicant satisfies the eligibility conditions and other procedures and requirements of application subject to such terms and conditions as may be specified by the relevant authority. Upon the relevant authority being satisfied that all other terms and conditions and other requirements for the Clearing Membership have been complied with, the applicant may be admitted as a Clearing Member. The granting of provisional membership shall not entitle the applicant to any privileges and rights of Clearing Membership.
- (7) The relevant authority may at its absolute discretion reject any application for admission without communicating the reason thereof.
- (8) If for any reason the application is rejected, the application fee or admission fee if any as the case may be or part thereof as may be decided by the relevant authority may at its discretion be refunded to the applicant, without any interest.
- (9) The relevant authority may at any time from the date of admission to the Clearing Membership of the Clearing Corporation withdraw the admission and expel a Clearing Member if he has in or at the time of his application for admission to membership or during the course of the inquiry made by the relevant authority preceding his admission :-
 - (a) made any wilful misrepresentation; or
 - (b) suppressed any material information required of him as to his character and antecedents;or

- (c) has directly or indirectly given false particulars or information or made a false declaration.
- (10) (a) The membership admission does not confer any ownership right as a member of the Clearing Corporation and shall not be transferable or transmittable except as herein mentioned.
- (b) Subject to such terms and conditions as the relevant authority may prescribe from time to time and to the prior written approval of the relevant authority, transfer of the Clearing Membership, may be effected as follows:
- (i) by making nomination under these Rules;
 - (ii) by an amalgamation or merger of a Clearing Member company;
 - (iii) by takeover of a Clearing Member company;
 - (iv) by transfer of the Clearing Membership of a Clearing Member firm to a new firm, in which, all the existing partners are not partners; and
 - (v) by two or more Clearing Members / Clearing Member firms coming together to form a new partnership firm/company.
- (c) A Clearing Member or his successor(s) may make a nomination to Clearing Membership. The nomination(s) made by a Clearing Member or successor(s) of a Clearing Member shall be subject to the following conditions, namely:
- (i) The nominee(s) shall, at the time when the nomination becomes effective, be person(s) who shall be qualified to be admitted as Clearing Member(s) of the Clearing Corporation;
 - (ii) The nominee(s) shall give to the relevant authority his/their unconditional and irrevocable acceptance of his/their nomination;
 - (iii) A Clearing Member shall nominate one or more of his successor(s) as per the applicable succession laws. If the Clearing Member has no successor(s) willing to carry on the Clearing Membership, then the Clearing Member may nominate person(s) other than his successor(s);
 - (iv) If the Clearing Member has not nominated any person and is rendered incompetent to carry on his business on the Clearing Corporation on account of physical disability, then the Clearing Member may, within a period of six months, make a nomination as per the provisions of sub-clause (iii) above;
 - (v) If the Clearing member has not nominated any person, the successor(s) of the Clearing Member may nominate one or more persons from among themselves within six months from the date of the death of the Clearing Member;
 - (vi) If the nomination of the Clearing Member is such that it cannot be given effect to by the relevant authority, at the time when the nomination would have become effective, then the successor(s) of such a Clearing Member may nominate any other person(s) within six months from the date on which the nomination would have become effective;
 - (vii) If more than one person(s) are nominated by the Clearing Member or the successor(s), then such nominated person(s) shall be required to form a company to carry on the Clearing Membership;
 - (viii) A nomination made by a Clearing Member or successor(s) may be revoked with the prior written approval of the relevant authority and subject to such terms and conditions as the relevant authority may prescribe from time to time. No such revocation shall be permitted after the nomination becomes effective; and
 - (ix) The nomination shall become effective in the case of a nomination made by a Clearing Member, from the date of his death or physical disability or from the date of approval by the relevant authority, whichever is later and in the case of a nomination made by successor(s), from the date on which such nomination is made or from the date of approval by the relevant authority, whichever is later.
- (d) The relevant authority may permit the transfer of Clearing Membership in the following circumstances:-
- (i) death of a Clearing Member;
 - (ii) if in the opinion of the relevant authority, the Clearing Member is rendered incompetent to carry on his business on the Clearing Corporation on account of physical disability;
 - (iii) upon amalgamation or merger of a Clearing Member company;
 - (iv) upon takeover of a Clearing Member company; and

- (v) upon the death of or resignation or notice of dissolution by a partner of a Clearing Member firm, and re-alignment, if any, by the partners in such firm or by the partners in such firm and the nominee(s)/successor(s) of the outgoing partner or by the partners in such firm and person(s) other than the nominee(s)/successor(s) of the outgoing partner in a new firm, within a period of six months from the date of such death or resignation or notice of dissolution.
- (e) The relevant authority may, while permitting the transfer, prescribe from time to time such transfer fee as it deems fit in the following circumstances, viz,
- (i) nomination by a Clearing Member of a person other than successor(s) under the applicable laws;
- (ii) nomination by the successor(s) of a Clearing Member, if the nominee(s) is/are not from amongst the successors;
- (iii) amalgamation or merger of a Clearing Member company with a non Clearing Member company resulting in the loss of majority shareholding and/or control of management by the majority shareholders of the Clearing Member company;
- (iv) takeover of the Clearing Member company by non Clearing Member(s) resulting in the loss of majority shareholding and/or control of management by the majority shareholders of the Clearing Member company; and
- (v) in the case of sub-clause (v) of clause (d), if the person(s) other than the nominee(s)/successor(s) of the outgoing partner hold at least 51% of share in the capital of the new firm.

Explanation I

For the purpose of sub-clauses (iii) and (iv) above, the term "loss of majority shareholding" means a shareholder or a group of shareholders holding 51% or more shares / interest in the Clearing Member company ceases to hold 51% of shares / interest in the Clearing Member company or in the amalgamated company which shall take up Clearing Membership upon amalgamation of the Clearing Member company with a Non Clearing Member company.

Explanation II

For the purpose of sub-clauses (iii) and (iv) above, the term "loss of control in management" means the loss of the right to appoint majority of the directors or to control the management or policy decision exercisable by person or persons acting individually or in concert, directly or indirectly including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.

- (f) For the purpose of the clauses (b) to (e), the term 'Clearing Member' shall to the extent applicable include a partner of a Clearing Member firm or a shareholder of a Clearing Member company. The term successor(s) shall to the extent applicable, includes successor(s) of a partner of a Clearing Member firm or successor(s) of a shareholder of a Clearing Member company.
- (g) Without prejudice to any other provision of the Rules, the Clearing Membership may be suspended, for such period as the relevant authority may deem fit, in the following circumstances:
- (i) upon the individual Clearing Member or a partner of a Clearing Member firm or a shareholder of a Clearing Member company, in the opinion of the relevant authority, being rendered incompetent to carry on his business on account of physical disability;
- (ii) upon the mental disability of the individual Clearing Member or a partner of a Clearing Member firm provided the partner holds at least 51% of share in the profits & losses of and/or at least 51% of share in the capital of such firm or a shareholder of a Clearing Member company provided the shareholder is a majority shareholder in such Clearing Member company;
- (iii) upon the death of an individual Clearing Member or a partner of a Clearing Member firm provided the partner holds at least 51% of share in the profits & losses of and/or at least 51% of share in the capital of such firm or a shareholder of a Clearing Member company, provided the shareholder is a majority shareholder in such Clearing Member company and during the six month period within which successor(s) of such individual Clearing Member partner or

shareholder, may nominate person(s) to take up the stake/shares of such deceased individual Clearing Member or partner or shareholder;

- (iv) upon the dissolution of a Clearing Member firm and during the six month period as referred to in sub clause (v) of clause (d) ; and
- (v) upon any deadlock in the management of a Clearing Member firm or Clearing Member company, which, in the opinion of the relevant authority will affect the ability of such Clearing Member firm or Clearing Member company to carry on its business. The Clearing Member shall be entitled for an opportunity for representation before the relevant authority, before being suspended under this sub-clause, but the decision of the relevant authority shall be final.

Explanation I

For the purposes of this sub-clause, the term "Deadlock in the Management" means a situation wherein there is a loss of confidence or disagreement among the partners of a Clearing Member firm or among the directors/shareholders of a Clearing Member company, which, in the opinion of the relevant authority, will affect or is likely to affect the conduct of business by the Clearing Member firm or Clearing Member company, as the case may be or an equality of vote at a meeting of the directors or shareholders of a Clearing Member company.

- (h) Without prejudice to any other provision of the Rules, the Clearing Membership may be terminated by the relevant authority if an acceptable nomination or realignment, as the case may be, does not take place to the satisfaction of the relevant authority, within the said period of six months.
- (i) The nominee(s), successor(s), partners of a Clearing Member firm or such other persons, as the case may be shall be entitled for an opportunity for representation before the relevant authority, before being terminated under clause (h) above, but the decision of the relevant authority shall be final.

Conversion of legal status of the Clearing Member

- (j) Subject to such terms and conditions as the relevant authority may prescribe from time to time and to the prior written approval of the relevant authority, conversion of the legal status of a Clearing Member may be effected as follows:
 - (i) by conversion of an individual Clearing Member into a partnership firm/company.
 - (ii) by conversion of a Clearing Member firm into a company.
- (k) The relevant authority may permit the conversion of the legal status of the Clearing Member in the following circumstances:
 - (i) In the case of sub-clause (i) of clause (j), if the individual Clearing Member holds and continues to hold atleast 51% of the share in the profits/losses and/or atleast 51% of share in the capital of the partnership firm, or atleast 51% of shareholding / interest in the company, which shall take up the Clearing membership of the Clearing Corporation.
 - (ii) In the case of sub-clause (ii) of clause (j), if the partners holding atleast 51% of share in the profits / losses and / or atleast 51% of share in the capital of the Clearing Member firm hold and continue to hold atleast 51% of shareholding / interest in the company which shall take up the Clearing Membership of the Clearing Corporation.

- (11) Notwithstanding anything contained in Rule 5(10), the relevant authority may, in its absolute discretion permit the transfer of the Clearing Membership to another person or entity, subject to such terms and conditions as the relevant authority may in its absolute discretion prescribe from time to time.
- (12) A Clearing Member shall not assign, mortgage, pledge, hypothecate or charge his right of membership or any rights or privileges attached thereto nor shall he has the right to give license or grant power of attorney in respect of such rights and privileges and no such attempted assignment, mortgage, pledge, hypothecation or charge or license or power of attorney shall be effective as against the Clearing Corporation for any purpose, nor shall any right or interest in any Clearing Membership other than the personal right or interest of the Clearing Member therein be recognised by the Clearing Corporation. The relevant authority may suspend any Clearing Member of the Clearing Corporation who acts or attempts to act in violation of the provisions of this rule or take any other disciplinary action as it may deem fit.

6. CONDITIONS

- (1) Clearing Members shall adhere to the Rules, Bye Laws and Regulations of the Clearing Corporation and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the relevant authority as may be applicable.
- (2) All contracts issued for admitted deals shall be in accordance with and subject to Rules, Bye Laws and Regulations of the Clearing Corporation.
- (3) Clearing Members shall furnish declarations, undertakings, confirmation and such other documents and papers relating to such matters and in such forms as may be prescribed by the relevant authority from time to time.
- (4) Clearing Members shall furnish to the Clearing Corporation within such time as may be prescribed an annual Auditors' Certificate certifying that specified requirements as may be prescribed by the relevant authority from time to time pertaining to their operations have been complied with.
- (5) Clearing Members shall furnish such information and periodic returns pertaining to their operations as may be required by the relevant authority from time to time.
- (6) Clearing Members shall furnish to the Clearing Corporation such audited and/or unaudited financial or qualitative information and statements and in such manner as may be required by the relevant authority from time to time.
- (7) Clearing Members shall comply with such requirements as may be prescribed by the relevant authority from time to time with regard to advertisements, booklets and issue of circulars in connection with their activities as Clearing Members.
- (8) Clearing Members shall extend full cooperation and furnish such information and explanation and in such manner as may be required by the relevant authority or authorised person of the Clearing Corporation for inspection or audit or in regard to any dealings, settlement, accounting and/or other related matters.

7. PARTNERSHIPS

- (1) No Clearing Member shall form a partnership or admit a new partner to an existing partnership or make any change in the name of an existing partnership without intimation and prior approval of the relevant authority in such form and manner and subject to such requirements as the relevant authority may specify from time to time; these requirements may, inter alia, include deposits, declarations, guarantees and other conditions to be met by and which may be binding on all partners.
- (2) No Clearing Member shall, at the same time, be a partner in more than one partnership firm which is a Clearing Member of the Clearing Corporation.
- (3) No Clearing Member who is a partner in any partnership firm shall assign or in any way encumber his interest in such partnership firm.
- (4) The partnership firm shall register with such authorities as may be required under relevant laws and shall produce proof of such registration to the Clearing Corporation.
- (5) The partners of the firm shall do business only on account of the firm and jointly in the name of the partnership firm. No single partner or group of partners are entitled to any rights and privileges of Clearing Membership independent from that of their partnership firm.
- (6) The partners of the partnership firm must communicate to the Clearing Corporation in writing under the signatures of all the partners or surviving partners any change in such partnership either by dissolution or retirement or death of any partner or partners.
- (7) Any notice to the Clearing Corporation intimating dissolution of a partnership shall contain a statement as to who undertakes the responsibility of settling all outstanding contracts and liabilities of the dissolved partnership firm but that shall not be deemed to absolve the other partner or partners of his or their responsibility for such outstanding contracts and liabilities.

8. TERMINATION OF MEMBERSHIP

- (1) Any Clearing Member may cease to be a member, if one or more apply:
 - (a) by resignation;
 - (b) by death;
 - (c) by expulsion in accordance with the provisions contained in the Bye Laws, Rules and regulations;
 - (d) by being declared a defaulter in accordance with the Bye Laws, Rules and Regulations of the Clearing Corporation;
 - (e) by dissolution in case of partnership firm;

- (f) by winding up or dissolution in the case of a limited company;
- (2) Notwithstanding anything contained in the Byelaws and Rules of Clearing Corporation, a clearing member shall ipso facto cease to be clearing member of the Clearing Corporation, on cessation of his membership/trading membership on one or more stock exchanges in accordance with the provisions contained in the Byelaws, Rules and Regulations of such stock exchange(s) and in such cases, such clearing member shall not be entitled for any opportunity of being heard or explanation in such an event.
- (3) The termination of Clearing Membership shall not in any way absolve the Clearing Member from any obligations and liabilities incurred by the Clearing Member prior to such termination.
- 9. RESIGNATION**
- (1) A Clearing Member who intends to resign from the Clearing Membership of the Clearing Corporation shall intimate to the Clearing Corporation a written notice to that effect.
- (2) Any Clearing Member of the Clearing Corporation objecting to any such resignation shall communicate the grounds of his objection to the relevant authority by letter within such period as may be specified by the relevant authority from time to time.
- (3) The relevant authority may accept the resignation of a Clearing Member either unconditionally or on such conditions as it may think fit or may refuse to accept such resignation and in particular may refuse to accept such resignation until it is satisfied that all outstanding transactions with such Clearing Member have been settled.
- 10. DEATH**
- (1) On death of a Clearing Member, his legal representatives and authorised representatives, if any, shall communicate due intimation thereof to the relevant authority in writing immediately and all future activities of the Clearing Member shall cease immediately except so far as it pertains to past obligations prior to his death.
- (2) On the termination of membership of a Clearing Member on his death, security deposits, other monies, any additional deposits, whether in the form of cash, bank guarantees, securities or otherwise, or securities lying with the Clearing Corporation shall be dealt in such manner as the relevant authority may prescribe from time to time.
- 11. FAILURE TO PAY CHARGES**
- Save as otherwise provided in the Bye Laws, Rules and Regulations of the Clearing Corporation if a member fails to pay his annual subscription, fees, deposit or contribution to Settlement Guarantee Fund(s), fines, penalties, other charges or other monies which may be due by him to the Clearing Corporation within such time as the relevant authority may prescribe from time to time after notice in writing has been served upon him by the Clearing Corporation, he may be suspended by the relevant authority until he makes payment and if within a further period of time as may be specified from time to time, he fails to make such payment, he may be declared a defaulter or may be expelled by the relevant authority.
- 12. CONTINUED ADMITTANCE**
- The relevant authority shall from time to time prescribe conditions and requirements for continued admittance to Clearing Membership which may, inter alia, include maintenance of deposit or contribution to Settlement Guarantee Fund, minimum networth and capital adequacy. The Clearing Membership of any person who fails to meet these requirements shall be liable to be terminated.
- 13. RE-ADMISSION OF DEFAULTERS**
- (1) A Clearing Member's right of membership shall lapse and vest with the Clearing Corporation immediately he is declared a defaulter. The Clearing Member who is declared a defaulter shall forfeit all his rights and privileges as a Clearing Member of the Clearing Corporation, including any right to use of or any claim upon or any interest in any property or funds of the Clearing Member with the Clearing Corporation.
- (2) The relevant authority reserves the right to re-admit a defaulting member and it may re-admit a defaulter as a Clearing Member subject to the provisions, terms and conditions as may be prescribed by the relevant authority from time to time.
- (3) The relevant authority may re-admit only such defaulter who in its opinion:
- has paid up all dues to the Clearing Corporation, other Clearing Members and constituents;
 - has no insolvency proceedings against him in a Court or has not been declared insolvent by any Court;
 - has defaulted owing to the default of principals whom he might have reasonably expected to be good for their commitments;
 - has not been guilty of bad faith or breach of the Bye Laws, Rules and Regulations of the Clearing Corporation;

- (e) has been irreproachable in his general conduct and is otherwise found to be 'Fit and Proper'.

CHAPTER V

DISCIPLINARY PROCEEDINGS, PENALTIES, SUSPENSION AND EXPULSION

1. DISCIPLINARY JURISDICTION

The relevant authority may expel or suspend and/or fine and/or penalise under censure and/or warn and/or withdraw all or any of the membership rights of a Clearing Member if it be guilty of contravention, non-compliance, disobedience, disregard or evasion of any of the Bye Laws, Rules and Regulations of the Clearing Corporation or of any resolutions, orders, notices, directions or decisions or rulings of the Clearing Corporation or the relevant authority or of any other Committee or officer of the Clearing Corporation authorised in that behalf or of any conduct, proceeding or method of business which the relevant authority in its absolute discretion deems dishonourable, disgraceful or unbecoming a Clearing Member of the Clearing Corporation or inconsistent with just and equitable principles or detrimental to the interests, good name or welfare of the Clearing Corporation or prejudicial or subversive to its objects and purposes.

2. PENALTY FOR BREACH OF RULES, BYE-LAWS AND REGULATIONS

Every Clearing Member shall be liable to suspension, expulsion or withdrawal of all or any of his Clearing Membership rights and/or to payment of fine and/or to be censured, reprimanded or warned for contravening, disobeying, disregarding or willfully evading of any of these Rules, Bye-laws and Regulations or any resolutions, orders, notices, directions, decisions or rulings thereunder of the Clearing Corporation, the Board of Directors, Executive Committee, Managing Director or any officer of the Clearing Corporation or for any disreputable or fraudulent transactions or dealings or method of business which the Board of Directors in its absolute discretion deems unbecoming a Clearing Member of the Clearing Corporation or inconsistent with just and equitable principles.

3. PENALTY FOR MISCONDUCT, UNBUSINESSLIKE CONDUCT AND UNPROFESIONAL CONDUCT

A Clearing Member shall be liable to expulsion or suspension or withdrawal of all or any of his membership rights and/or to payment of a fine and/or penalty and/or to be censured, reprimanded or warned for any misconduct, unbusinesslike conduct or unprofessional conduct as provided in the provisions in that behalf as provided herein.

(1) Misconduct

- (a) *Fraud*: If he is convicted of a criminal offence or commits fraud or a fraudulent act which in the opinion of the relevant authority renders him unfit to be a Clearing Member;
- (b) *Violation*: If he has violated provisions of any statute governing the activities, business and operations of the Clearing Corporation, Clearing Members and securities business in general;
- (c) *Improper Conduct*: If in the opinion of the relevant authority he is guilty of dishonourable or disgraceful or disorderly or improper conduct on the Clearing Corporation or of willfully obstructing the business of the Clearing Corporation;
- (d) *Breach of Rules, Bye Laws and Regulations*: If he shields or assists or omits to report any Clearing Member whom he has known to have committed a breach or evasion of any Bye Laws, Rules and Regulation of the Clearing Corporation or of any resolution, order, notice or direction thereunder of the relevant authority or of any Committee or officer or the Clearing Corporation authorised in that behalf;
- (e) *Failure to comply with Resolutions*: If he contravenes or refuses or fails to comply with or abide by any resolution, order, notice, direction, decision or ruling of the relevant authority or of any Committee or officer of the Clearing Corporation or other person authorised in that behalf under the Bye Laws, Rules and Regulations of the Clearing Corporation;
- (f) *Failure to submit to or abide by Arbitration*: If he neglects or fails or refuses to submit to the relevant authority or to a Committee or an officer of the Clearing Corporation authorised in that behalf, such books, correspondence, documents and papers or any part thereof as may be required to be produced or to appear and testify before or cause any of its partners, attorneys, agents, authorised representatives or employees to appear and testify before the relevant authority or such Committee or officer of the Clearing Corporation or other person authorised in that behalf;
- (g) *Failure to testify or give information*: If he neglects or fails or refuses to submit to the relevant authority or to a Committee or an officer of the Clearing Corporation authorised

in that behalf, such books, correspondence, documents and papers or any part thereof as may be required to be produced or to appear and testify before or cause any of its partners, attorneys, agents, authorised representatives or employees to appear and testify before the relevant authority or such Committee or officer of the Clearing Corporation or other person authorised in that behalf;

- (h) *Failure to submit Special Returns* : If he neglects or fails or refuses to submit to the relevant authority within the time notified in that behalf special returns in such form as the relevant authority may from time to time prescribe together with such other information as the relevant authority may require whenever circumstances arise which in the opinion of the relevant authority make it desirable that such special returns or information should be furnished by any or all the Clearing Members;
- (i) *Failure to submit Audited Accounts* : If he neglects or fails or refuses to submit its audited accounts to the Clearing Corporation within such time as may be prescribed by the relevant authority from time to time;
- (j) *Failure to compare or submit accounts with Defaulter* : If he neglects or fails to compare his accounts with the relevant authority or to submit to it a statement of its accounts with a defaulter or a certificate that he has no such account or if he makes a false or misleading statement therein;
- (k) *False or misleading Returns* : If he neglects or fails or refuses to submit or makes any false or misleading statement in his clearing forms or returns required to be submitted to the Clearing Corporation under the Bye Laws, Rules and Regulations;
- (l) *Vexatious complaints* : If he or his agent brings before the relevant authority or a Committee or an officer of the Clearing Corporation or other person authorised in that behalf a charge, complaint or suit which in the opinion of the relevant authority is frivolous, vexatious or malicious;
- (m) *Failure to pay dues and fees* : If he fails to pay his subscription, fees, arbitration charges or any other money which may be due by it or any fine or penalty imposed on him.

(2) Unbusinesslike Conduct

A Clearing Member shall be deemed guilty of unbusinesslike conduct for any of the following or similar acts or omissions namely:

- (a) *Fictitious Names*: If he transacts his own business or the business of his constituent in fictitious names or if he carries on business in more than one clearing segment of the Clearing Corporation under fictitious names;
- (b) *Circulation of rumours*: If he, in any manner, circulates or causes to be circulated, any rumours;
- (c) *Unwarrantable Business*: If he engages in reckless or unwarrantable or unbusinesslike dealings in the market or effects purchases or sales for his constituent's account or for any account in which he is directly or indirectly interested which purchases or sales are excessive in view of his constituent's or his own means and financial resources or in view of the market for such security;
- (d) *Compromise* : If he connives at a private failure of a Clearing Member or accepts less than full and bona fide money payment in settlement of a debit due by a Clearing Member arising out of a deal in securities;
- (e) *Dishonoured Cheque* : If he issues to any other Clearing Member or to its constituents or to the Clearing Corporation a cheque which is dishonoured on presentation for whatever reasons;
- (f) *Failure to carry out transactions with Constituent*: If he fails in the opinion of the relevant authority to carry out its committed transactions with its constituents;

(3) Unprofessional Conduct

A Clearing Member shall be deemed guilty of unprofessional conduct for any of the following or similar acts or omissions namely:

- (a) *Business in Securities in which dealings not permitted*: If he enters into dealings in securities in which dealings are not permitted;
- (b) *Business for Defaulting Constituent* : If he deals or transacts business directly or indirectly or executes an order for a constituent who has within his knowledge failed to carry out engagements relating to securities and is in default to another Clearing Member unless such constituent shall have made a satisfactory arrangement with the Clearing Member who is his creditor;

- (c) *Business for Insolvent* : If without first obtaining the consent of the relevant authority he directly or indirectly is interested in or associated in business with or transacts any business with or for any individual who has been bankrupt or insolvent even though such individual shall have obtained his final discharge from an Insolvency Court;
- (d) *Business without permission when under suspension* : If without the permission of the relevant authority he does business on his own account or on account of a principal with or through a Clearing Member during the period he is required by the relevant authority to suspend business on the Clearing Corporation;
- (e) *Business for or with suspended, expelled and defaulter Clearing Members*: If without the special permission of the relevant authority he shares brokerage with or carries on business or makes any deal for or with any Clearing Member who has been suspended, expelled or declared a defaulter;
- (f) *Business for Employees of other Clearing Members* : If he transacts business directly or indirectly for or with or executes a deal for a authorised representative or employee of another Clearing Member without the written consent of such employing Clearing Member;
- (g) *Evasion of Margin Requirements*: If he willfully evades or attempts to evade or assists in evading the margin requirements prescribed in these Bye Laws and Regulations;
- (h) *Clearing Fees*: If he willfully evades or attempts to evade or assists in evading the Bye Laws and Regulations relating to clearing fees.
- (i) *Advertisement*: If it advertises for business purposes or issues regularly circular or other business communication to persons other than its own constituents, trading members of the Exchange, Banks and Joint Stock Companies or publishes pamphlets, circulars or any other literature or report or information relating to the stock markets, without the prior written permission of the Clearing Corporation or in contravention of the advertisement code prescribed by the Clearing Corporation.

4. CLEARING MEMBER RESPONSIBLE FOR PARTNERS, AGENTS AND EMPLOYEES

A Clearing Member shall be fully responsible for the acts and omissions of its authorised officials, attorneys, agents, authorised representatives and employees and if any such act or omission be held by the relevant authority to be one which if committed or omitted by the Clearing Member would subject it to any of the penalties as provided in the Bye Laws, Rules and Regulations of the Clearing Corporation then such Clearing Member shall be liable thereof to the same penalty to the same extent as if such act or omission had been done or omitted by him.

5. SUSPENSION ON FAILURE TO PROVIDE MARGIN DEPOSIT, DEPOSIT OR CONTRIBUTION TO SETTLEMENT GUARANTEE FUND OR CAPITAL ADEQUACY REQUIREMENTS

The relevant authority may suspend a Clearing Member and/or require a Clearing Member to suspend his business if he fails to provide the margin deposits, deposits and contributions to Settlement Guarantee Fund and/or meet capital adequacy norms as provided in these Bye Laws, Rules and Regulations and the suspension of business shall continue until the Clearing Member furnishes the necessary margin deposit or deposit/contribution to Settlement Guarantee Fund or meet capital adequacy requirements. The relevant authority may expel Clearing Member acting in contravention of this provision.

6. SUSPENSION OF BUSINESS

The relevant authority may suspend a Clearing Member and/or require a Clearing Member to suspend its business in part or in whole:

- a) *Unwarrantable Business*: When in the opinion of the relevant authority the Clearing Member engages in unwarrantable business or effects deals for its constituent's account or for any account in which he is directly or indirectly interested which deals are excessive in view of his constituent's or his own means and financial resources or in view of the market for such security, or
- b) *Unsatisfactory Financial Condition*: When in the opinion of the relevant authority the Clearing Member is in such financial condition that he cannot be permitted to do business with safety to his creditors or the Clearing Corporation.

7. REMOVAL OF SUSPENSION

The suspension of business as mentioned above shall continue until the Clearing Member has been allowed by the relevant authority to resume his business on paying such deposit or his doing such act or providing such thing as the relevant authority may require.

8. PENALTY FOR CONTRAVENTION

A Clearing Member who is suspended or who is required to suspend his business or part thereof may be expelled by the relevant authority if he acts in contravention of such suspension or requirement.

9. CLEARING MEMBERS AND OTHERS TO TESTIFY AND GIVE INFORMATION

A Clearing Member shall appear and testify before and cause its partners, attorneys, agents, authorised representatives and employees to appear and testify before the relevant authority or before other Committee(s) or an officer of the Clearing Corporation authorised in that behalf and shall produce before the relevant authority or before other Committee(s) or an officer of the Clearing Corporation authorised in that behalf, such books, correspondence, documents, papers and records or any part thereof which may be in its possession and which may be deemed relevant or material to any matter under inquiry or investigation.

10. PERMISSION NECESSARY FOR LEGAL REPRESENTATION

No person shall have the right to be represented by professional counsel, attorney, advocate or other representative in any investigation or hearing before the relevant authority or any other Committee unless the relevant authority or other Committee so permits.

11. EXPLANATION BEFORE EXPULSION

A Clearing Member shall be entitled to be summoned before the relevant authority and afforded an opportunity for explanation before being expelled but in all cases the findings of the relevant authority shall be final and conclusive.

12. IMPOSITION OF PENALTIES

The penalty of suspension, withdrawal of all or any of the membership rights, fine, censure or warning may be inflicted singly or conjointly by the relevant authority. The penalty of expulsion may be inflicted by relevant authority.

13. PRE-DETERMINATION OF PENALTIES

The relevant authority shall have the power to pre-determine the penalties, the period of any suspension, the withdrawal of particular membership rights and the amount of any fine that would be imposed on contravention, non-compliance, disobedience, disregard or evasion of any Bye Law, Rules or Regulations of the Clearing Corporation or of any resolution, order, notice, direction, decision or ruling thereunder of the Clearing Corporation, the relevant authority or of any other Committee or officer of the Clearing Corporation authorised in that behalf.

14. COMMUTATION

The relevant authority in its discretion may in any case suspend a Clearing Member in lieu of the penalty of expulsion or may withdraw all or any of the membership rights or impose a fine in lieu of the penalty of suspension or expulsion and may direct that the guilty Clearing Member be censured or warned or may reduce or remit any such penalty on such terms and conditions as it deems fair and equitable.

15. RECONSIDERATION/REVIEW

The relevant authority may of its own or on appeal by the Clearing Member concerned, reconsider and rescind, revoke or modify its order fining, censuring, warning or withdrawing all or any of the membership rights of the Clearing Member. In a like manner the relevant authority may rescind, revoke or modify its resolution expelling or suspending any Clearing Member.

16. FAILURE TO PAY FINES AND PENALTIES

If a Clearing Member fails to pay any fine or penalty imposed on him within such period as prescribed from time to time by the relevant authority he may be suspended by the relevant authority until he makes payment and if within a further period as prescribed from time to time he fails to make such payment he may be expelled by the relevant authority.

17. CONSEQUENCES OF SUSPENSION

The suspension of a Clearing Member shall have the following consequences namely:

(1) Suspension of Membership Rights

A suspended Clearing Member shall during the terms of his suspension, be deprived of and excluded from all rights and privileges of membership but he may be proceeded against by the relevant authority for any offense committed by him before or after suspension and the relevant authority shall not be debarred from taking cognisance of and dealing with or adjudicating on claims made against him by other Clearing Members;

(2) Rights of creditors unimpaired

The suspension shall not affect the rights of Clearing Members who are creditors of the suspended Clearing Members and rights of the Clearing Corporation;

(3) Fulfilment of Deals and Obligations

The suspended Clearing Member shall be bound to fulfill obligations and deals outstanding at the time of his suspension;

(4) **Further business prohibited**

The suspended Clearing Member shall not during the terms of his suspension transact any business provided that he may with permission of the relevant authority close the deals outstanding at the time of his suspension;

18. **CONSEQUENCES OF EXPULSION**

The expulsion of a Clearing Member shall have the following consequences namely:

(1) **Clearing Membership Rights forfeited**

The expelled Clearing Member shall forfeit to the Clearing Corporation its right of Clearing Membership and all rights and privileges as a Clearing Member of the Clearing Corporation including any right to the use of any claim upon or any interest in any property or funds of the Clearing Corporation but any liability of any such Clearing Member to the Clearing Corporation or to any Clearing Member of the Clearing Corporation shall continue and remain unaffected by its expulsion;

(2) **Office vacated**

The expulsion shall create a vacancy in any office or position held by the expelled Clearing Member;

(3) **Rights of Creditors unimpaired**

The expulsion shall not affect the rights of the Clearing Members who are creditors of the expelled Clearing Member;

(4) **Fulfilment of Deals and Obligations**

The expelled Clearing Member shall be bound to fulfill deals and obligations outstanding at the time of his expulsion and he may with the permission of the relevant authority close such outstanding transactions;

(5) **Clearing Members not to deal**

No Clearing Member shall transact business for or with the expelled Clearing Member except with the previous permission of the relevant authority.

(6) **Consequences of declaration of defaulter to follow**

The provisions of Chapter XI of the Bye Laws pertaining to default shall become applicable to the Clearing Member expelled from the Clearing Corporation as if such Clearing Member has been declared a defaulter.

(7) **Expulsion Rules to Apply**

When a Clearing Member ceases to be such under the provisions of these Bye Laws and Rules otherwise than by death, default or resignation it shall be as if such Clearing Member has been expelled by the relevant authority and in that event all the provisions relating to expulsion contained in these Rules shall apply to such Clearing Member in all respects.

19. **NOTICE OF PENALTY AND SUSPENSION OF BUSINESS**

(1) Notice shall be given to the Clearing Member concerned and to the Clearing Members in general by such mode as may be decided by the relevant authority from time to time of the expulsion or suspension or default of or of the suspension of business by a Clearing Member or of any other penalty imposed on it or on its partners or other employees. The relevant authority may in its absolute discretion and in such manner as it thinks fit notify or cause to be notified to the Clearing Members of the Clearing Corporation or to the public that any person who is named in such notification has been expelled, suspended, penalised or declared a defaulter or has suspended his business or ceased to be a Clearing Member. No action or other proceedings shall in any circumstances be maintainable by such person against the Clearing Corporation or the relevant authority or any officer or employee of the Clearing Corporation for the publication or circulation of such notification. The application for Clearing Membership or the application for registration as the constituted attorney or authorised representative or by the person concerned shall operate as license and this Bye Laws and Rules shall operate as leave to print, publish or circulate such advertisement or notification and be pleadable accordingly.

(2) Notwithstanding anything contained in these provisions, if in the opinion of the relevant authority it is necessary to do so, he may, for reasons to be recorded in writing, temporarily suspend forthwith the Clearing Member, pending completion of appropriate proceedings for suspension under this chapter by the relevant authority, and no notice of hearing shall be required for such temporary suspension and such temporary suspension shall have the same consequences of suspension under this chapter, provided that appropriate proceedings provided in this chapter shall be commenced by issue of a notice to show cause to the Clearing Member within 10 days of such temporary suspension. Any such temporary suspension may be revoked at the discretion of the

महाराष्ट्र शासन राजपत्र, भाग दोन-संकीर्ण सूचना व जाहिराती,
गुरुवार ते बुधवार, सप्टेंबर २०-२६, २०१८/भाद्र २९-अश्विन ४, शके १९४०

relevant authority, for reasons to be recorded in writing, if the relevant authority is satisfied that the circumstances leading to the formation of opinion of the relevant authority to suspend, has ceased to exist or are satisfactorily resolved.

Dated : 29th August 2018,
Place : Mumbai.

AVNI PATEL,
Company Secretary.

Serial No. M-18169

**PROPOSED BYE LAWS OF METROPOLITAN CLEARING CORPORATION OF INDIA LIMITED
(COMMODITY DERIVATIVES SEGMENT)**

Subject to SEBI's (Securities and Exchange Board of India) approval, it is proposed to make the following Byelaws for Commodity Derivatives segment of Metropolitan Clearing Corporation of India Limited. The proposed Byelaws are published for information/public comments/ criticism. Any person having any comments/ observations on the proposed Byelaws may send the same in writing to the undersigned at Metropolitan Clearing Corporation of India Limited, 4th Floor, Vibgyor, Tower, Plot No C 62, G Block, Opp. Trident Hotel, Bandra Kurla Complex, Bandra (E), Mumbai - 400098 or through email to secretarial@mcclar.in within fifteen days from the date of publication. The comments/ observations received after the fifteenth day will not be considered and the draft will be taken into consideration immediately after the expiry of fifteen days.

**PROPOSED BYE LAWS OF METROPOLITAN CLEARING CORPORATION OF INDIA LIMITED
(COMMODITY DERIVATIVES SEGMENT)**

**CHAPTER I
DEFINITIONS**

1. APPROVED INTERMEDIARY

"Approved Intermediary" means Metropolitan Clearing Corporation of India Limited registered with Securities and Exchange Board of India.

2. ARTICLES

"Articles" means the Articles of Association of Metropolitan Clearing Corporation of India Limited and includes any modification or alteration thereof for the time being in force.

3. BOARD

"Board" means Board of Directors of Metropolitan Clearing Corporation of India Limited.

4. BUYING CLEARING MEMBER

"Buying Clearing Member" means a Clearing Member handling the Clearing and Settlement functions of a Client or a Constituent who or whose client has purchased a Security on the Trading floor of the Concerned Exchange pursuant to which it is obligated to honour the purchase obligation by following all the prescribed procedures

5. CIRCULAR or NOTICE

"Circular or Notice" means informational notifications or a binding communication issued from time to time by the Clearing Corporation to its Member(s) and the Market in general and transmitted by fax, e-mail or any other mode and manner which the Clearing Corporation may deem appropriate, including publication through the website and titled "Circular" or "Notice" accordingly.

6. CLEARING AND SETTLEMENT

"Clearing and Settlement" means clearing or settlement or clearing and settlement of deals in such manner and subject to such conditions as may be specified by the Relevant Authority from time to time, unless the context indicates otherwise.

7. CLEARING BANK(S)

Clearing Bank(s) is such bank(s) as the Clearing Corporation may appoint to act as a funds settling agency, for the collection of margin money for all deals cleared through the Clearing Corporation and any other funds movement between clearing members and the Clearing Corporation and between clearing members inter-se as may be directed by the Clearing Corporation from time to time.

8. CLEARING CORPORATION

Clearing Corporation means Metropolitan Clearing Corporation of India Limited and its successors (if any).

9. CLEARING MEMBER

"Clearing Member" means a member of the Clearing Corporation and includes all categories of clearing members as may be admitted as such by the Clearing Corporation but does not denote the shareholders of the Clearing Corporation.

10. CLEARING SEGMENTS

"Clearing Segments" means the different categories of securities, within a Market segment type, that the Concerned Exchange makes available to their respective Trading Members for dealing on their trading

platform and has been agreed to by the Clearing Corporation for being admitted to its Clearing and Settlement mechanism in terms of these Bye laws and categorized appropriately.

11. CLEARING SUB SEGMENTS

Clearing Sub Segments means and includes those categories of securities falling under a broad head of clearing segment but differentiated either on the basis of market acceptability and practice or the product or security profile and attributes.

12. CLIENT /CONSTITUENT

A Client/Constituent means a person, on whose instructions and on whose account the clearing member clears and settles deals on the Clearing Corporation. For this purpose, the term client shall include all registered constituents of trading members of Specified Exchange.

Explanation 1: The terms "Constituent" and "Client" are used interchangeably in these Byelaws, Rules & Regulations and shall have the same meaning assigned herein.

Explanation 2: For „Constituent" in relation to trades shall also include a trading member where such trades done on the Specified Exchange are cleared and settled on his behalf by a Clearing Member.

13. CLOSE-OUT OR CLOSING OUT OR SQUARE OFF

"Close-out or Closing out or Square off" means the cancellation of an outstanding open position in one direction with an equal and opposite position

14. COLLATERAL

"Collateral" means and includes cash or financial instruments (including but not limited to Fixed Deposit Receipts, bank guarantees, government securities and units of the schemes of liquid mutual funds or government securities, receipts of accredited warehousing Corporations) and/or Commodities as approved by the Relevant Authority from time to time through Notifications and/or Circulars for the provision of Initial Margin or other deposits and Margins in accordance with these Bye-Laws, the Rules and the Regulations made under these Bye-Laws.

15. CONCERNED/ SPECIFIED EXCHANGE

"Concerned/ Specified Exchange" means any Stock Exchange including commodity duly recognized under SCRA which has entered into an arrangement with the Clearing Corporation for carrying out all operational procedures and regulatory functions in the matter of Clearing and Settlement of the Deals executed on its trading platform between its Trading members so as to complete the fulfilment of the funds pay-in, Securities delivery and the related pay-out obligations concerning such Deals.

16. DEAL

"Deal" means, unless the context indicates otherwise, a deal which is admitted to be cleared and settled through the Clearing Corporation.

17. DELIVERING MEMBER

"Delivering Member" means a clearing member who has to or has delivered documents in fulfillment of contract to which these Rules, Bye Laws and Regulations apply unless the context indicates otherwise.

18. PARTICIPANT

"Participant" means and refers to an entity accredited or permitted by the Clearing Corporation through an arrangement or agreement to participate in one or more of the processes of the clearing and settlement mechanism towards facilitating the completing of the said processes in accordance with the Bye laws, Rules and Regulations framed from time to time for such purpose and subject to such terms and conditions, as may be prescribed by the Relevant Authority.

19. RECEIVING MEMBER

"Receiving Member" means a clearing member who has to receive or has received documents in fulfillment of contracts to which these Rules, Bye Laws and Regulations apply unless the context indicates otherwise.

20. REGULATIONS

"Regulations" means Regulations of the Clearing Corporation for the time being in force and includes business rules, code of conduct and such other procedures and regulations, circulars, directives and orders as issued by the relevant authority from time to time for the operations of the Clearing Corporation.

21. RELEVANT AUTHORITY

"Relevant Authority" means the Board or such other authority as specified by the Board from time to time as relevant for a specified purpose.

22. RULES

Unless the context indicates otherwise, "Rules" means the Rules of Clearing Corporation for the time being in force.

23. SEBI

"SEBI" is the abbreviation for the Securities and Exchange Board of India.

24. SCRA

SCRA is the abbreviation for Securities Contracts (Regulation) Act, 1956.

25. SCRR

SCRR is the abbreviation for Securities Contracts (Regulation) Rules, 1957

26. SECC

SECC is the abbreviation for Securities Contracts (Regulation) (Stock Exchange and Clearing Corporations) Regulations, 2012.

27. SELLING CLEARING MEMBER

"Selling Clearing Member" means a Clearing Member handling the Clearing and Settlement functions of a Client or a Constituent who or whose client has sold a Security on the Trading floor of the Concerned Exchange pursuant to which it is obligated to honour the sale obligation by following all the prescribed procedures.

28. SECURITIES

"Securities" shall have the meaning assigned to it in the Securities Contracts (Regulation) Act, 1956 and shall also include such other class of instruments or products, monetary or non- monetary, scrip-less or otherwise, as may be admitted to be cleared and settled through the Clearing Corporation.

29. SETTLEMENT GUARANTEE FUND

Settlement Guarantee Fund means a fund established and maintained in accordance with the relevant provisions of these Bye Laws.

30. TRADING MEMBER

"Trading Member" or "trading member" means any person admitted as a member in any specified Stock Exchange in accordance with the Rules, Bye Laws and Regulations of that Stock Exchange.

Note : The terms defined above shall mean the same when used in lower case in the Bye Laws, Rules and Regulations, unless the context indicates otherwise.

31. UNDERLYING

"Underlying" refers to an asset on which the price of the Derivative contract is based.

32. WAREHOUSE

"Warehouse" means and includes any place of storage, godown, tank, silos, store house, vault, etc where commodities are capable of being received and stored.

33. WAREHOUSE / VAULT RECEIPT

"Warehouse / Vault Receipt" means a document, whether in physical or electronic form evidencing a commodity being held in an approved or accredited warehouse.

34. WAREHOUSE SERVICE PROVIDER

"Warehouse Service Provider (WSP)" means an agency approved and accredited by the Clearing Corporation for the storage and preservation of any Underlying.

CHAPTER II CLEARING SEGMENTS

1. There may be more than one clearing sub-segment as may be specified by the relevant authority under these Bye-laws from time to time, subject to approval by SEBI under Regulation 38 of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012
2. The Clearing Corporation may establish more than one clearing sub-segment or division in the Commodity Derivatives Segment and/or any other segments as may be specified by the relevant authority from time to time. Deals which may be admitted to the different clearing sub-segments or divisions of Commodity Derivatives Segment for the purpose of clearing and settlement will be specified by the relevant authority from time to time.

CHAPTER III STATUTORY AND OTHER COMMITTEES

1. The Board may, from time to time, constitute one or more committees comprising of members of the Board or such other members as the Board may in its discretion deem fit or necessary or as may be prescribed by SEBI from time to time.
2. The Board may specify the terms of reference of such committee and delegate to such committees such powers as the Board may deem fit or as may be prescribed by SEBI from time to time and the Board may from time to time revoke such delegation or dissolve such committees.

CHAPTER IV REGULATIONS

The Board or the Executive Committee may prescribe Regulations from time to time for the functioning and operations of the Commodity Derivatives Segment and to regulate the functioning and operations of the clearing members of the Commodity Derivatives Segment.

Without prejudice to the generality of the above, the Board or the Relevant Authority may prescribe regulations from time to time, inter alia, with respect to:

- 1) norms, procedures, terms and conditions for admission of one or more Exchanges for clearing and settlement of deals/ trades done on those Exchanges;
- 2) norms, procedures, mechanisms for dissemination of spot prices arrived at through spot price polling process; norms, procedures, terms and conditions to be complied with for admission of deals for clearing and settlement in the Commodity Derivatives Segment by the Clearing Corporation;
- 3) norms, procedures, terms and conditions for clearing and settlement of deals in the Commodity Derivatives Segment;
- 4) forms and conditions of deals to be entered into, and the time, mode and manner for performance of deals between clearing members inter se or between clearing members and their constituents;
- 5) norms, procedures, terms and conditions for guaranteed settlement by the Commodity Derivatives Segment;
- 6) prescription, from time to time, and administration of penalties, fines and other consequences, including suspension/expulsion of clearing members from the Commodity Derivatives Segment for defaults;
- 7) norms, procedures, terms and conditions for imposition and administration of different types of margins and other charges and restrictions that may be imposed by the Commodity Derivatives Segment from time to time.
- 8) determination from time to time, of fees, system usage charges, deposits, margins and other monies payable to the Clearing Corporation by clearing members of the Commodity Derivatives Segment and the scale of clearing and other charges that may be collected by such clearing members;
- 9) supervision of the clearing operations and promulgation of such Business Rules and Codes of Conduct as it may deem fit;
- 10) maintenance of records and books of accounts by clearing members as it may deem fit and records as required under the Securities Contracts (Regulation) Act and Rules made thereunder or any other law for the time being in force
- 11) inspection and audit of records and books of accounts of clearing members;
- 12) settlement of disputes, complaints, claims arising between clearing members inter-se as well as between clearing members and persons who are not clearing members relating to any deal in securities cleared and settled through the Commodity Derivatives Segment including settlement by arbitration;
- 13) norms, procedures, terms and conditions for arbitration;
- 14) the manner of empanelment, operations and interfacing with exchanges, Warehouse Service Providers, Warehousing entities, Custodians, Depository (ies) and Clearing banks;
- 15) norms and procedures for availing services from Warehouses and Warehouse service providers for physical delivery of the Underlying commodities and from surveyors, assaying agencies, quality testing and certification laboratories/ agencies and other appropriate authorities and agencies;
- 16) terms of appointment and dissolution of committees of the Clearing Corporation;
- 17) process for expulsion or suspension of Clearing Members;
- 18) administration, maintenance and investment of the corpus of the Fund(s) set up by the Commodity Derivatives Segment including Core Settlement Guarantee Fund(s);
- 19) establishment, norms, terms and conditions, functioning and procedures of clearing house, clearing through depository or other arrangements including custodial services for clearing and settlement;
- 20) norms, procedures, terms and conditions in respect of, incidental to or consequential to closing out of deals;
- 21) exercise its powers in such other matters in relation to the Clearing Corporation as may be specified under the provisions of the Memorandum and/ or Articles of Association or these Bye-laws as may be necessary or expedient for the maintenance, control, management, regulation and facilitation of the operations of the Clearing Corporation;
- 22) dissemination of information and announcements;
- 23) any other matter as may be decided by the Board.

CHAPTER V CLEARING MEMBERS

1. The relevant authority is empowered to admit clearing members in accordance with Rules and Regulations. The Clearing Member shall pay such fees, security deposits and other monies as may be specified by the Board or the relevant authority from time to time, on admission as Clearing Member and for continued admission. The fees, security deposits, other monies and any additional deposits paid, whether in the form of cash, bank guarantee, commodity, securities or otherwise, with the Clearing Corporation, by a Clearing Member from time to time, shall be subject to a first and paramount lien for any sum due to the Clearing Corporation and all other claims against the Clearing Member for due fulfillment of engagements, obligations and liabilities of Clearing Members arising out of or incidental to any dealings made subject to the Byelaws, Rules and Regulations of the Clearing Corporation. The Clearing Corporation shall be entitled to adjust or appropriate such fees, deposits and other monies for such dues and claims, to the exclusion of the other claims against the Clearing member, without any reference to the Clearing member. The proceeds arising out of invocation of the bank guarantees furnished by the Clearing Member in lieu of security deposits or additional deposits, on being invoked by the Clearing Corporation, shall not be reckoned as part of the Clearing Member's deposits for the purpose of enablement or exposure, etc., unless the Clearing Member complies with the conditions imposed by the Relevant Authority from time to time. The proceeds from invoking the bank guarantees shall be dealt with by the Clearing Corporation as it may deem fit.
2. The relevant authority may specify prerequisites, conditions, formats and procedures for application for admission, termination, re-admission, etc. of clearing members to each clearing segment. The relevant authority may, at its absolute discretion, refuse permission to any applicant to be appointed as clearing member.
3. Clearing member of any segment may clear and settle deals through the Clearing Corporation pertinent to that segment in such manner and mode and subject to such terms and conditions and procedures as may be prescribed for the clearing member.
4. Clearing members may clear and settle deals either on their own account or on behalf of their clients unless otherwise specified by the relevant authority and subject to such terms and conditions which the relevant authority may prescribe from time to time.
5. (a) Clearing members shall adhere to the Bye Laws, Rules and Regulations of the Clearing Corporation and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the relevant authority as may be applicable.
b) All deals cleared on the Clearing Corporation shall be in accordance with the Bye Laws, Rules and Regulations of the Clearing Corporation.
c) Clearing members shall furnish declarations relating to such matters and in such forms as may be prescribed by the relevant authority from time to time.
d) Clearing members shall furnish such information and periodic returns pertaining to their operations as may be required by the relevant authority from time to time.
e) Clearing members shall furnish to the extent such audited and/or unaudited financial or quantitative information and statements as may be required by the relevant authority from time to time.
f) Clearing members shall extend full co-operation and furnish such information and explanation as may be required for the purpose of any inspection or audit authorised by the relevant authority or other authorised official of the Stock Exchange/ Clearing Corporation into or in regard to any dealings, their settlement, accounting and/or other related matters.

- g) Subject to these Bye –Laws, the requirements of SEBI, the Relevant Authority may from time to time prescribe terms and conditions in respect of matters concerning the transfer or the transmission of clearing membership of the Clearing Corporation or the decision of a Clearing Member to surrender or withdraw/ resign from the clearing membership of the Clearing Corporation.
- h) Without prejudice to the rights of the Clearing Corporation or the Disciplinary Action Committee under these Bye-laws, the Rules and Regulations made thereunder a Clearing Member's rights and privileges may be suspended either in whole or in part or terminated where the Clearing Member has breached, failed to meet or violated certain requirements that may be prescribed by the Relevant Authority from time to time and the consequence of such breach, failure or violation is suspension or termination of Clearing Membership.
- i) An Applicant Clearing Members shall not be entitled to exercise any of the rights or privileges of Clearing Membership unless it:
 - ☐ has paid in full the clearing membership fees, annual fees and other charges, deposits or fees as may be specified by the Clearing Corporation;
 - ☐ meets the applicable minimum capital and financial requirements specified in the Rules and / or circulars issued by the Relevant Authority and/ or;
 - ☐ has obtained permission or is exempted under the Relevant statutes from holding license/ authorization/ recognition.

CHAPTER VI CLEARING AND SETTLEMENT OF DEALS

A. DEALS FOR CLEARING AND SETTLEMENT

1. CLEARING AND SETTLEMENT OF DEALS

- (1) The Commodity Derivative segment of the Clearing Corporation shall clear and settle such deals as provided in the Bye Laws and Regulations and save as so provided, no other deals shall be cleared and settled.
- (2) Without prejudice to the generality of the above, the relevant authority may in its discretion and subject to such conditions as it may deem fit admit any other deals.

2. ADMISSION OF DEALS

- (1) Clearing and settlement shall be permitted on the Clearing Corporation in deals which are from time to time admitted on the Commodity Derivatives segments subject to approval of SEBI by the relevant authority in accordance with the provisions of the Bye Laws and Regulations.
- (2) The relevant authority may specify securities from time to time dealings in which may be admitted in accordance with the provisions of the Bye Laws and Regulations in that regard.
- (3) The relevant authority may specify stock exchanges from time to time dealings on which may be admitted for clearing and settlement by the Commodity Derivatives segment in accordance with the provisions of the Bye Laws and Regulations of the Clearing Corporation subject to approval by SEBI.

3. CONDITIONS AND REQUIREMENTS OF CLEARING AND SETTLEMENT

The relevant authority may grant admission of deals dealt in the Exchange provided all the conditions and requirements prescribed in the Bye Laws and Regulations and such other conditions and requirements as the relevant authority may prescribe from time to time are complied with.

4. REFUSAL OF ADMISSION OF DEALS

The relevant authority may, in its discretion, approve admission of deals or defer, or reject admission of deals for clearing and settlement on the Commodity Derivatives segment, subject to such terms as it deems fit.

5. SPECIFIC DEALS

The relevant authority may permit in appropriate cases as it may at its discretion decide from time to time specific deals to be cleared and settled through the Commodity Derivatives segment in case of securities which are not admitted or are for the time being prohibited or suspended.

6. SUSPENSION OF ADMISSION OF DEALS

The relevant authority may suspend at any time the admission of deals including of any security of specified exchange on Commodity derivatives segment for such period as it may determine and reinstate such deals subject to such conditions as it may deem fit.

7. WITHDRAWAL OF ADMISSION OF DEALS

The relevant authority may where it deems necessary withdraw the admission to dealings of a specified exchange either for breach of or non-compliance with any of the conditions or requirements of admission of dealings or for any other reason whatsoever.

8. READMISSION OF DEALS

The relevant authority in its discretion may readmit deals of a specified exchange which has been previously withdrawn.

B. CLEARING AND SETTLEMENT OF DEALS

9. CLEARING AND SETTLEMENT

- (1) Clearing and settlement of deals in Commodity Derivatives segment may be on netted basis or gross basis or trade- for-trade basis or any other basis as may be specified by the relevant authority from time to time. Settlement shall be effected by clearing members giving and receiving delivery and paying and receiving funds as may be specified by the relevant authority from time to time in the Bye Laws and Regulations.
- (2) The relevant authority may prescribe terms and conditions and processes and procedures for netting, from time to time.

Explanation: For the purpose of this Bye-law

“**Netting**” means the determination by Clearing Corporation of net payment or delivery obligations of the clearing members of a recognised clearing corporation by setting off or adjustment of the inter se obligations or claims arising out of buying and selling of securities including the claims and obligations arising out of the termination by the Clearing Corporation or Stock Exchange, in such circumstances as the Clearing Corporation may specify in bye-laws, of the transactions admitted for settlement at a future date, so that only a net claim be demanded, or a net obligation be owed.

(A) Novation

- (a) Novation means the act of a clearing corporation interposing itself between both parties of every trade, being the legal counterparty to both.
- (b) The relevant authority may prescribe terms and conditions and processes and procedures to effect novation, from time to time.

(B) Settlement and Netting

1. Payment and settlement in respect of a transaction between parties referred above, shall be final, irrevocable and binding on the parties. When a settlement has become final and irrevocable, the right of clearing corporation, to appropriate any collaterals or deposits or margins contributed by the trading member, clearing member or client towards its settlement or other obligations in accordance with the bye-laws shall take priority over any other liability of or claim against the said trading member, clearing member or client, as the case may be in terms of the applicable laws

2. The relevant authority may prescribe terms and conditions and processes and procedures in this regard, from time to time.
Explanation: For removal of doubts it is hereby declared that the settlement, whether gross or net referred to in this bye-laws is final and irrevocable as soon as the money, securities or other transactions payable as a result of such settlement is determined, whether or not such money, securities or the relevant underlying are actually paid or delivered.
3. The Clearing Corporation shall have the right to recover the dues of any of its Clearing Members in one or more Clearing Segments from the collaterals, deposits and the assets of such Clearing Member available with the Clearing Corporation across Clearing Segments and such right shall have priority over any other liability of or claim against the said Clearing Member.

(C) Guarantee of Settlement of Trades

1. The Clearing Corporation guarantees the completion of Clearing and settlement of deals admitted to it for clearing and settlement of obligations in terms of the provisions of these Bye-Laws and the Rules and Regulations of the Clearing Corporation.
2. The relevant authority may prescribe terms and conditions and processes and procedures in respect of settlement guarantee, from time to time.
3. The relevant authority may from time to time exclude deals or classes of deals from the settlement guarantee mentioned in clause (1) above.

10. PRIVACY OF CONTRACT

- (1) Except as provided herein, Clearing members giving and receiving delivery as provided in the Bye Laws and Regulations shall be deemed, notwithstanding that no direct contract may exist between them, to have made a contract with each other as sellers and buyers. However the rights and liabilities of delivering and receiving member in relation to their immediate contracting party shall not be deemed to be affected thereby except that the selling member (unless he be himself the delivering member) shall be released from all responsibility in regard to the title, ownership, genuineness, regularity and validity of the documents received by the receiving member and in regard to the loss and damages arising therefrom, which shall be dealt with in accordance with the provisions of Bye Laws and Regulations thereof.
- (2) In cases where the Commodity Derivatives segment may specify either generally or specifically, clearing members giving and receiving delivery and paying and receiving funds as provided in the Bye Laws and Regulations shall be deemed, notwithstanding that no direct contract exists between them, to have made a contract with the Clearing Corporation as sellers and buyers and between themselves as delivering and receiving members; provided further however that in such event the rights and liabilities of delivering and receiving member with the Commodity Derivatives segment shall not be deemed to be affected thereby except that the Commodity Derivatives segment shall not be responsible in respect of the title, ownership, genuineness, regularity and validity of the documents delivered or received and in regard to the loss and damages arising therefrom, which shall be dealt with in accordance with the provisions of Bye Laws and Regulations thereof.

11. ARRANGEMENT FOR CLEARING AND SETTLEMENT

- (1) Clearing and settlement of deals shall be effected by clearing members by adopting and using such arrangements, systems, agencies or procedures as may be prescribed or specified by the relevant authority from time to time. Without prejudice to the generality of the above, the relevant authority may prescribe or specify from time to time such custodial, depository, Clearing Bank, warehousing and other services for adoption and use by clearing members and their constituents to facilitate smooth operation of the clearing and settlement arrangement or system.
- (2) The Clearing Corporation will act as the Central Counter party to all trades and will provide full novation.
- (3) Save as otherwise expressly provided in the Bye Laws and Regulations, when funds and securities are cleared and/or settled under a specified arrangement, the settlement responsibility shall rest wholly and solely upon the counter parties to the contract and/or the concerned clearing members as the case may be and the Clearing Corporation shall act as the common agent or facilitator, as may be

applicable, of the clearing members for receiving or giving delivery of securities and where applicable the Underlying in respective delivery obligations under Derivatives contracts and for receiving and paying funds, without incurring any liability or obligation as a principal.

12. OPERATIONAL PARAMETERS FOR CLEARING

- (1) The relevant authority may determine and announce from time to time operational parameters regarding clearing of deals through the Clearing Corporation in Commodity Derivatives segment which the clearing members shall adhere to.
- (2) The operational parameters may, inter alia, include :
 - a. clearing/ exposure limits allowed which may include clearing limits with reference to networth and capital adequacy norms;
 - b. clearing volumes and limits at which it will be incumbent for clearing members to intimate the Commodity Derivatives segment ;
 - c. fixation of delivery lots for different settlement types;
 - d. other matters which may affect smooth operation of clearing of deals keeping in view larger interest of the public;
 - e. determining types of deals permitted for a clearing member and for a security;
 - f. determining functional details of the clearing and settlement system including the system design, user infrastructure and system operation.
 - g. Collection of margins from Clients and reporting collection of the same.
- (3) In the matter of deliverable Commodity Derivative Contract, the Clearing Corporation shall ensure that all parameters that have been stipulated by the Concerned Exchanges in the attributes of an Underlying, including among others the determination of 'basis' variety and deliverable varieties for different commodities, "on" and "off" allowances for tendering varieties other than the basis, contract (delivery) months, delivery periods, delivery centers, tender days shall be met by the Delivering Clearing Member. The Relevant Authority shall, through the Regulations and circulars and notifications issued from time to time lay out all:
 - a) requirements that a Delivering Clearing Member will need to fulfill in this regard including the applicable allowances, if any;
 - b) procedure for settlement of disputes relating to quality, price and delivery.

13. CLEARING HOURS

- (1) The hours for clearing and settling of Commodity Derivatives segments of the Clearing Corporation shall be during such time as may be decided by the relevant authority from time to time. The relevant authority may, from time to time, specify clearing hours for different types of deals and different clearing sub segments or divisions of Commodity Derivatives segment.
- (2) The Relevant authority may at any time pre pone, extend, alter or postpone from time to time the clearing days and time schedules for different Exchanges, Market/ segment/ securities.
- (3) Notwithstanding anything to the contrary contained in these byelaws, the Clearing Corporation may for reasons to be recoded:
 - a. Extend or postpone the time for Clearing and /or Settlement performance of securities in any deals wherever in its opinion such action is called for public interest or by just and equitable principles of trade or when circumstances beyond the control of either or both of the contracting parties make such action desirable.
 - b. Extend or postpone in any particular case, the time for the settlement performance of a Security from any one Clearing schedule to the ensuing Clearing schedule.
 - c. In the event of multiple settlements on a single day because of intervening holidays or otherwise, the transactions shall be cleared and settled on a sequential basis or any other basis as may be specified by the Clearing Corporation.
- (4) The relevant authority may declare a list of holidays in a calendar year. The relevant authority may from time to time alter or cancel any of the holidays fixed in accordance with these provisions. It may, for reasons to be recorded, suspend clearing and settlement operations in Commodity Derivatives segment on days other than or in addition to holidays.

14. DELIVERY OF SECURITIES

- (1) Delivery and settlement of all securities, documents and papers and payment in respect of all deals in the Commodity Derivatives segment shall be in such manner and such place(s) as may be prescribed by the relevant authority from time to time.
- (2) The relevant authority shall specify from time to time, the securities, documents and papers which, when delivered in prescribed manner, shall constitute good delivery. Where circumstances so warrant, the relevant authority may determine, for reasons to be recorded, whether or not a delivery constitutes a good delivery, and such findings shall be binding on parties concerned. Where the relevant authority determines that a delivery does not constitute a good delivery, the delivering party shall be required to substitute good delivery instead within such time as may be specified.
- (3) The norms and procedures for delivery with respect to market lot, odd lot, minimum lot, part delivery, delivery of partly paid securities etc., shall be as prescribed by the relevant authority from time to time.
- (4) Clearing Corporation shall allocate the delivery orders / delivery received by it amongst one or more buyers having outstanding long open positions in a manner as considered appropriate by the Relevant Authority.
- (5) The Relevant Authority may specify in advance before commencement of a contract various grades of a commodity that may be tendered and the discounts and premiums for such grades.
- (6) The requirements and procedures for determining disputed deliveries or defective deliveries, and measures, procedures and system of resolving the dispute or defect in deliveries or of consequences of such deliveries or their resolution shall, subject to these Bye Laws, be as prescribed by the relevant authority from time to time.

15. CLOSING OUT

- (1) A deal admitted for clearing and settlement may be closed out on failure of a clearing member to comply with any of the provisions relating to delivery, payment and settlement of deals or on any failure to fulfill the terms and conditions subject to which the deal has been made, or such other circumstances as the relevant authority may specify from time to time. The deal may be closed out by the Clearing Corporation in such manner, within such time frame and subject to such conditions and procedures as the relevant authority may prescribe from time to time.
- (2) Without prejudice to the generality of the foregoing, the relevant authority may close out deals, inter alia, by buying in or selling out against a clearing member as follows:-
 - (a) in case of the selling clearing members, on failure to complete delivery on the due date; and
 - (b) in case of the buying clearing members, on failure to pay the amount due on the due date, and
 - (c) any loss, damage or shortfall sustained or suffered as result of such closing out shall be payable by the clearing members who failed to give due delivery or to pay amount due.

16. FAILURE TO MEET OBLIGATIONS

In the event a clearing member fails to meet obligations to the Clearing Corporation arising out of clearing and settlement operations of admitted deals, the relevant authority may charge such interest, impose such penalties and fines and take such disciplinary action against the clearing member as it may determine from time to time. Any disciplinary action which the relevant authority takes pursuant to the above shall not affect the obligations of the clearing member to the Clearing Corporation or any remedy to which the Clearing Corporation may be entitled under applicable law.

CHAPTER VII DEALINGS BY CLEARING MEMBERS

1. JURISDICTION

- (1) All deals admitted by the Clearing Corporation in its Commodity Derivatives segment for clearing and settlement shall be deemed to have been entered into in the city of Mumbai unless provided otherwise expressly by the relevant authority.
- (2) The relevant authority may, from time to time, specify deals as subject to a particular jurisdiction, having regard to the type or nature of the deal, the exchange on which the deal was struck and other relevant factors.

2. RECORD FOR EVIDENCE

The record of the Commodity Derivatives segment as maintained by a central processing unit or a cluster of processing units or computer processing units, whether maintained in any other manner shall constitute the agreed and authentic record in relation to any deals cleared and settled through the Clearing Corporation. For the purposes of any disputes regarding clearing and settlement of deals the records as maintained by the Commodity Derivatives segment shall constitute valid evidence in any dispute or claim between the constituents and the clearing member of the Clearing Corporation or between the clearing members of the Clearing Corporation inter-se or between the clearing members and the Commodity Derivatives segment.

3. CLEARING MEMBER ONLY PARTIES TO DEALS

The Clearing Corporation in its Commodity Derivatives segment does not recognise as parties to deals any persons other than its own clearing members, and every clearing member is directly and wholly liable in accordance with whom such clearing member has any deal for due fulfillment of the deal or to the Commodity Derivatives segment as may be specified by the relevant authority, whether such deal be for account of the clearing member effecting it or for account of a constituent.

4. ALL DEALS SUBJECT TO RULES, BYE LAWS AND REGULATIONS

All deals shall be made subject to the Rules, Bye Laws and Regulations of the Clearing Corporation and this shall be a part of the terms and conditions of all such deals and the deals shall be subject to the exercise by the relevant authority of the powers with respect thereto vested in it by the Bye Laws, Rules and Regulations of the Clearing Corporation.

5. INVIOABILITY OF ADMITTED DEALS

- (1) All the dealings in securities on the Commodity Derivatives segment of the Clearing Corporation made subject to the Byelaws, Rules and Regulations of the Clearing Corporation shall be inviolable and shall be cleared and settled in accordance with the Byelaws, Rules and Regulations of the Clearing Corporation. However, the Clearing Corporation may by a notice annul the deal(s) on an application by a Clearing Member in that behalf, if the relevant authority is satisfied after hearing the other party/parties to the deal(s) that the deal(s) is /are fit for annulment on account of fraud or wilful misrepresentation or material mistake in the trade.
- (2) Notwithstanding anything contained in clause (1) above, the Clearing Corporation may, to protect the interest of investors in securities and for proper regulation of the securities market, Suo-Motu annul deal(s) at any time if the relevant authority is satisfied for reasons to be recorded in writing that such deal(s) is/ are vitiated by fraud, material mistake, misrepresentation or market or price manipulation and the like.
- (3) Any annulment made pursuant to clauses (1) and (2) above, shall be final and binding upon the parties to trade(s). In such an event, the Clearing Member shall be entitled to cancel the relevant deal(s) with its constituents.

6. DEALS BY REPRESENTATIVE CLEARING MEMBERS

A clearing member may authorise another clearing member to act as a representative for a specified period with the prior permission of the relevant authority.

7. INDEMNITY

The Clearing Corporation shall not be liable for any activity of the clearing member or any person acting in the name of the clearing member whether authorised or unauthorised including deals cleared and settled through the Clearing Corporation in the Commodity Derivatives segment save and except as and to the extent provided in the Bye Laws and Regulations.

CHAPTER VIII

MARGINS

1. MARGIN REQUIREMENTS

- (1) The relevant authority may from time to time prescribe requirements of margins for deals cleared and settled through the Clearing Corporation in Commodity Derivatives segment and the clearing member shall furnish such margin as a condition precedent.
- (2) Every Clearing Member has a continuing obligation to maintain margins at such levels and during such periods as may be stipulated by the Clearing Corporation from time to time.

2. FORM OF MARGIN

The Relevant Authority shall specify:

- a. the type, nature and composition of Collaterals that will be acceptable as Margin,
- b. the methods and formulae for calculating above Margins and,
- c. mode of remittance or their payment
- d. the time that certain Collaterals will cease to be acceptable as Margin and on the valuation to be attributed thereto.

The Relevant Authority shall value any Collaterals provided for Margin in accordance with the valuation methodology prescribed from time to time.

3. QUANTUM OF MARGIN

The clearing member depositing margins, in the form of securities by way of pledge or otherwise or in such other mode as may be prescribed by the relevant authority from time to time, shall always maintain the value thereof at not less than the quantum of margin required for the time being covered by them by providing further security to the satisfaction of the relevant authority which shall determine the said value and whose valuation shall conclusively fix the amount of any deficiency to be made up from time to time.

4. MARGIN TO BE HELD BY THE CLEARING CORPORATION

The margins shall be held by the Clearing Corporation in the Commodity Derivatives segment and when they are in the form of bank deposit receipts and securities such receipts and securities may be transferred to such persons or to the name of a custodian or such other entity approved by the Clearing Corporation. All margin deposits shall be held by the Clearing Corporation and/or by the approved persons and/or by the approved custodian in such form and on such account as the Clearing Corporation may deem fit solely for without any right whatsoever on the part of the depositing clearing member or those in its right to call in question the exercise of such discretion. The Clearing Corporation shall retain control over all Collateral as part of the margin of the such Clearing Member.

All Collaterals provided to the Clearing Corporation as Margin shall be free of, and shall remain free of, any encumbrances whatsoever.

The Clearing Corporation shall not have any obligation or responsibility to preserve, protect, collect or realise collaterals or its value other than that applicable to an ordinary and prudent person and under no circumstances shall the Clearing Corporation be liable for any loss or diminution in value or depreciation in or in connection with the Collaterals tendered or deposited by the Member and maintained as above.

A Clearing Member who maintains Collaterals with the Clearing Corporation pursuant to these Bye-Laws and the Rules shall indemnify and hold the Clearing Corporation harmless from any loss, damage, costs, charges and /or expenses of whatsoever nature and however arising ("loss") suffered or incurred by the Clearing Corporation to any approved custodian which may result from or arise with respect to:

- ☐ any act, delay or omission in connection with the Collaterals deposited with such approved Custodian (by such Clearing Member or the Clearing Corporation) or;

- ☐ any agreement between the Member and any approved Custodian or bank or any representation, warranty or undertaking given by the Clearing Corporation to any designated Custodian or bank in relation to or otherwise in connection with Collaterals deposited with such approved Custodian or bank, provided that this indemnity shall not cover any loss and/or liability of the Clearing Corporation attributable to or referable to the gross negligence or willful misconduct of the Clearing Corporation or any of its directors, officers employees or agents.

Each Clearing Member shall pay the Clearing Corporation all fees, expenses, charges and costs incurred by the Clearing Corporation in relation to its acceptance and maintenance of Collaterals specified under the Rules of the Clearing Corporation as the Relevant Authority may determine from time to time and shall make such deposits of Margins (in such form as may be acceptable to the Clearing Corporation) as may be required by the Clearing Corporation by reason of any erosion or depreciation in the market value of such Collaterals.

5. LIEN ON MARGINS

The monies paid by way of margin or bank deposit receipts or other securities or assets pledged or hypothecated by a clearing member in lieu of margin under the provisions of the Bye Laws and Regulations shall be subject to a first and paramount lien for all sums due to the Clearing Corporation in the Commodity Derivatives segment. Margin shall be available in preference to all other claims against the clearing member for the due fulfillment of his obligations and liabilities arising out of or incidental to any deals made subject to the Bye Laws, Rules and Regulations of the clearing corporation or anything done in pursuance thereof.

6. UTILISATION FOR FAILURE TO MEET OBLIGATIONS

In the event a clearing member fails to meet obligations to the Clearing Corporation arising out of clearing and settlement operations of such deals on the Commodity Derivatives segment as provided in the Bye Laws and Regulations, the relevant authority shall be entitled to utilise any amount paid by the said clearing member in the form of margin or any other payment retained by the Clearing Corporation for the purpose of clearing and settlement on the Commodity Derivatives segment. The Collaterals of a Clearing Member maintained with the Clearing Corporation may be disposed of, without notice and in any manner deemed appropriate by the Clearing Corporation and the proceeds from the liquidation of such Collaterals shall be applied against the obligations of the Clearing Member to the Clearing Corporation in respect of one or more Clearing Segments.

The Clearing Corporation may at any time combine one or more clearing accounts of the Clearing Member with the Clearing Members' liabilities to the Clearing Corporation and set off and/or transfer and/or apply any funds in such account towards satisfaction of any liabilities of the Clearing Member to the Clearing Corporation.

7. EVASION OF MARGIN REQUIRMENTS FORBIDDEN

A clearing member shall not directly or indirectly enter into any arrangement or adopt any procedure for the purpose of evading or assisting in the evasion of the margin requirements prescribed under the Bye Laws and Regulations.

8. SUSPENSION ON FAILURE TO PAY MARGIN

If a clearing member fails to pay margin as required in the Bye Laws and Regulations, the relevant authority may take such action as it may deem fit and specified from time to time including suspension of such Clearing Member or squaring off / close out of the Open Positions of the Clearing Member and/or his affiliated constituents and their clients.

9. INTEREST, DIVIDEND AND CALLS

- (1) The receiving member shall be entitled to receive all vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges which may relate to securities bought cum

voucher, cum coupons, cum dividends, cum cash bonus, cum bonus issues, cum rights, etc. The delivering member shall be entitled to receive all vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges which may relate to securities sold ex voucher, ex coupons, ex dividends, ex cash bonus, ex bonus issues, ex rights, etc.

- (2) The manner, mode, information requirements, alterations, date and timing etc., of adjustment with respect to vouchers, coupons, dividends, cash bonus, bonus issues, rights and other privileges between the receiving and delivering member shall be as prescribed by the relevant authority from time to time. Save as otherwise provided in the Bye Laws and Regulations, the clearing members shall be responsible between themselves and to their constituents for effecting such adjustments.
- (3) In respect of a deal in securities which shall become or are exchangeable for new or other securities under a scheme of reconstruction or reorganisation, the delivering member shall deliver to the receiving member, as the relevant authority directs, either the securities contracted for or the equivalent in securities and/or cash and/or other property receivable under such scheme of reconstruction or reorganisation.

10. CLEARING FEES

The relevant authority may prescribe from time to time fees, charges and recoveries to be levied on the clearing members in respect of clearing and settlement of deals.

CHAPTER IX

RIGHTS AND LIABILITIES OF CLEARING MEMBERS AND CONSTITUENTS

1. MARGIN FROM CONSTITUENTS

A clearing member shall have the right to demand from its constituent the margin he has to provide under the Rules, Bye Laws and Regulations in respect of the business done by him for such constituent. A clearing member shall also have the right to demand an initial margin in cash and securities from its constituent before undertaking to clear his obligations and to stipulate that the constituent shall pay a margin or furnish additional margin as may be specified by the Commodity Derivatives segment of the Clearing Corporation according to changes in market prices. The constituent shall when from time to time called upon to do so forthwith pay margins and furnish additional margins as required under the Rules, Bye Laws and Regulations in respect of his obligations and as agreed upon by him with the clearing member concerned.

All deals done on the Clearing Corporation made by a clearing member in Commodity Derivatives segment shall in all cases be deemed made subject to the Bye Laws, Rules and Regulations of the Commodity Derivatives segment of the Clearing Corporation. This shall be a part of the terms and conditions of all such contracts and shall be subject to the exercise by the relevant authority of the powers with respect thereto vested in it by the Bye Laws, Rules and Regulations of the Commodity Derivatives segment of the Clearing Corporation.

2. CONSTITUENT IN DEFAULT

- (1) A clearing member shall not transact business directly or indirectly for a constituent who to his knowledge is in default to another clearing member unless such constituent shall have made a satisfactory arrangement with the clearing member who is his creditor.
- (2) On the application of a creditor clearing member who refers or has referred to arbitration its claim against the defaulting constituent as provided in the Rules, Bye Laws and Regulations, the relevant authority shall issue orders against any clearing members restraining them from paying or delivering to the defaulting constituent any monies or securities up to an amount or value not exceeding the creditor member's claim payable or deliverable by him to the defaulting constituent in respect of deals subject to the Bye Laws, Rules and Regulations of the Clearing Corporation, which moneys and securities shall be deposited with the Clearing Corporation. The moneys and securities deposited shall be disposed of in terms of the award in arbitration and pending a decree shall be deposited with the concerned Court.

when filing the award unless the creditor clearing member and the defaulting constituent mutually agree otherwise.

3. CLOSING-OUT OF CONSTITUENT'S ACCOUNT

Unless otherwise prescribed by the relevant authority from time to time, when closing-out the account of a constituent a clearing member may assume or take over such deals to his own account as a principal at prices which are fair and justified by the condition of the market or he may close-out in the open market and any expense incurred or any loss arising therefrom shall be borne by the constituent.

A Clearing Member may close out all open transactions on account of a Constituent who has died or declared insolvent or bankrupt. A Clearing Member may close out all open transactions on account of such a constituent.

4. CLEARING MEMBER NOT LIABLE TO ATTEND TO REGISTRATION OF TRANSFER

Unless otherwise prescribed by the relevant authority from time to time, a clearing member shall not be deemed to be under any obligation to attend to the transfer of securities and the registration thereof in the name of the constituent. If it attends to such work in the ordinary course or at the request or desire or by the consent of the constituent it shall be deemed to be the agent of the constituent in the matter and shall not be responsible for loss in transit or for the company's refusal to transfer or not be under any other liability or obligation other than that specifically imposed by the Rules, Bye Laws and Regulations. The stamp duty, the transfer fees and other charges payable to the company, the fee for attending to the registration of securities and all incidental expenses such as postage incurred by the clearing member shall be borne by the constituent.

5. REGISTRATION OF SECURITIES WHEN IN THE NAME OF CLEARING MEMBER OR NOMINEE

- (1) When the time available to the constituents of a clearing member is not sufficient for them to complete transfers and lodge the securities for registration before the closing of the transfer books and where the security is purchased cum interest, dividend, bonus or rights which the company may have announced or declared, the clearing member may register the securities in its or its nominee's name and recover the transfer fee, stamp duty and other charges from the buying constituent.
- (2) The clearing member shall give immediate intimation to the Clearing Corporation of the names of such constituents and details of the deals as may be specified by the relevant authority from time to time. The clearing member shall also give immediate intimation thereof to the buying constituent and shall stand indemnified for the consequences of any delay in delivery caused by such action.
- (3) The clearing member shall be obliged to re-transfer the security in the name of the original constituent as soon as it has become ex interest, dividend, bonus or rights.

6. CLOSING-OUT BY CONSTITUENT ON FAILURE TO PERFORM A DEAL

If a clearing member fails to complete the performance of a deal by delivery or payment in accordance with provisions of the Rules, Bye Laws and Regulations the constituent shall, after giving notice in writing to the clearing member, close out such deal through any other clearing member as soon as possible and any loss or damages sustained as a result of such closing out shall be immediately payable by the defaulting clearing member to the constituent. If the closing out be not effected as provided herein, the damages between the parties shall be determined on such basis as may be prescribed by the relevant authority from time to time and the constituent and the clearing member shall forfeit all further rights of recourse against each other.

7. COMPLAINT BY CONSTITUENT

When a complaint has been lodged by a constituent with the relevant authority that any

clearing member has failed to perform his dealings, the relevant authority shall investigate the complaint and if it is satisfied that the complaint is justified it may take such disciplinary action as it deems fit.

8. **RELATIONSHIP BETWEEN CLEARING MEMBER AND CONSTITUENT**

Without prejudice to any other law for the time being in force and subject to these Bye Laws, the mutual rights and obligations inter se between the clearing members and their constituents shall be such as may be prescribed by the relevant authority from time to time.

CHAPTER X ARBITRATION

- I. All claims, disputes, differences arising between Clearing Members and Constituents or between Clearing Members inter se arising out of or related to deals admitted for clearing and settlement by the Clearing Corporation or with reference to anything done in respect thereto or in pursuance of such deals shall be referred to and decided by arbitration as provided in the Rules, Byelaws and Regulations of the Specified Exchange as if the deal originated from it or in pursuance thereof.

II. **1. Definitions**

- (a) 'arbitrator' shall mean a sole arbitrator or a panel of arbitrators.
(b) 'Act' shall mean the Arbitration and Conciliation Act, 1996 and includes any statutory modification, replacement or re-enactment thereof, for the time being in force.

2. Reference to Arbitration

All claims, difference or disputes between the Clearing Members inter se and between Clearing Members and Constituents arising out of or in relation to dealings, contracts and transactions made subject to the Bye-Laws, Rules and Regulations of the Clearing Corporation or with reference to anything incidental thereto or in pursuance thereof or relating to their validity, construction, interpretation, fulfillment or the rights, obligations and liabilities of the parties thereto and including any question of whether such dealings, transactions and contracts have been entered into or not shall be submitted to arbitration in accordance with the provisions of these Byelaws and Regulations. Provisions of these Byelaws and Regulations deemed to form part of all dealings, contracts and transactions

3. Provisions of these bye laws and regulations deemed to form part of all dealings, contracts and transactions

In all dealings, contracts and transactions, which are made or deemed to be made subject to the Byelaws, Rules and Regulations of the Clearing Corporation, the provisions relating to arbitration as provided in these Byelaws and Regulations shall form and shall be deemed to form part of the dealings, contracts and transactions and the parties shall be deemed to have entered into an arbitration agreement in writing by which all claims, differences or disputes of the nature referred to in Byelaw (2) above shall be submitted to arbitration as per the provisions of these Byelaws and Regulations.

4. Limitation period for reference of claims, differences or disputes for arbitration

All claims, differences or disputes referred to in Bye law 2 above shall be submitted to arbitration within the period prescribed under the Limitation Act, 1963 including any amendment thereto.

5. Power of the Relevant Authority to prescribe Regulations

- (a) The Relevant Authority may, from time to time prescribe Regulations for the following:
(i) The procedure to be followed by the parties in arbitral proceedings. In particular, and without prejudice to the generality of the foregoing power, such procedure may,

inter alia, provide for the following:

- a) the forms to be used;
 - b) the fees to be paid;
 - c) the mode, manner and time period for submission of all pleadings by both the parties;
 - d) matters relating to requests from the parties for amending or supplementing the pleadings; and
 - e) the consequences upon failure to submit such pleadings by the parties.
- (ii) The procedure to be followed by the arbitrator in conducting the arbitral proceedings. In particular, and without prejudice to the generality of the foregoing power, such procedure may, inter alia, provide for
- a) adjournment of hearings; and
 - b) terms and conditions subject to which the arbitrator may appoint experts to report on specific issues and the procedure to be followed in arbitral proceedings upon such an appointment.
 - c) passing interim orders/directions if deemed fit.
- (iii) Different set of arbitration procedures for different claims, differences or disputes after taking into consideration such circumstances and facts as the Relevant Authority may deem fit, which circumstances and facts may include the value of the subject matter and the persons who are involved as parties to such claims, differences or disputes.
- (iv) Creation of seats of arbitration for different regions or prescribing geographical locations for conducting arbitrations and prescribing the courts which shall have jurisdiction for the purpose of the Act.
- (v) The claims, differences or disputes which may be referred to a sole arbitrator and the claims, differences or disputes which may be referred to a panel of arbitrators.
- (vi) The procedure for selection of persons eligible to act as arbitrators.
- (vii) The procedure for appointment of arbitrator.
- (viii) The terms, conditions and qualifications subject to which any arbitrator may be appointed.
- (ix) Determination of the number of arbitrators in the case of a panel of arbitrators.
- (x) The time period within which a substitute arbitrator has to be appointed in case the office of the arbitrator falls vacant for any reason whatsoever.
- (xi) The matters to be disclosed by any person who is approached in connection with his possible appointment as an arbitrator.
- (xii) The procedure to be adopted by the parties for challenging the appointment of an arbitrator.
- (xiii)(a) The claims, differences or disputes which, may be decided by the arbitrator without a hearing unless either party in writing requests the Relevant Authority for a hearing and the time period within which such a request shall be made.
- (b) The claims, differences or disputes which, may be decided by the arbitrator only by hearing the parties unless both the parties jointly waive the right to such hearing and the time period within which such a waiver shall be made.
- (xiv) The place of arbitration for each reference and the places where the arbitrator can meet for consultation, for hearing witnesses, experts, or the parties, or for inspection of documents, goods or other property.
- (xv) The making of the arbitral award including the manner in which a decision is to be taken in the case of panel of arbitrators and the form and contents of the arbitral award. The term arbitral award shall also include an arbitral award on agreed terms. Prescriptions as to the contents of the arbitral award may include provisions for costs and where the arbitral award is for the payment of money, may include interest payable on principal sum due.
- (xvi) The amount of deposit or supplementary deposit, as the case may be, as an advance for the costs which it expects will be incurred in respect of the claim,

difference or dispute; provided where a counterclaim is submitted to the arbitrator, a separate amount of deposit for the counter-claim may also be prescribed.

(xvii) The administrative assistance which the Clearing Corporation may render in order to facilitate the conduct of arbitral proceedings.

(xviii) All matters regarding the mode and the manner of service of notices and communications by the parties including communication addressed to arbitrator.

(xix) Any other matter which in the opinion of the Relevant Authority is required to be dealt with in the Regulations to facilitate arbitration.

(b) The Relevant Authority from time to time may amend, modify, alter, repeal, or add to the provisions of the Regulations.

6. Disclosure by persons to be appointed as arbitrators

Every person who is approached in connection with his possible appointment as an arbitrator shall disclose to the Relevant Authority in writing any circumstances likely to give rise to justifiable doubts as to his independence and impartiality. If the person discloses any circumstances which in the opinion of the Relevant Authority are likely to give rise to justifiable doubts as to his independence and impartiality, then he shall not be appointed as an arbitrator.

7. Disclosure by persons appointed as arbitrators

An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall, without delay, disclose to the Relevant Authority in writing any circumstances referred to in Byelaw (6) above which have come to his knowledge after his appointment as an arbitrator.

8. Termination of mandate of the arbitrator

The mandate of the arbitrator shall terminate if

(a) the arbitrator withdraws from office for any reason; or

(b) in the opinion of the Relevant Authority, the arbitrator becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay including failure to make the arbitral award within the time period prescribed by the Relevant Authority. Such a decision of the Relevant Authority shall be final and binding on the parties; or

(c) the mandate of the arbitrator is terminated by the Relevant Authority upon receipt of written request for the termination of the mandate of the arbitrator from both the parties to arbitration; or

(d) the arbitrator discloses any circumstances referred to in Byelaws (6) and (7) which in the opinion of the Relevant Authority are likely to give rise to justifiable doubts as to his independence and impartiality; or

(e) the arbitral proceedings are terminated as provided for herein.

9. Supplying of vacancy to the office of the arbitrator

At any time before the making of the arbitral award should the office of the arbitrator fall vacant for any reason whatsoever including any vacancy due to the illness or death of the arbitrator or termination of the mandate of the arbitrator by the Relevant Authority or otherwise, the vacancy shall be supplied by the Relevant Authority by following the same procedure as specified by it for appointment of the arbitrator.

10. Consideration of recorded proceedings and evidence

Unless otherwise agreed by parties, any arbitrator who has been appointed by the Relevant Authority to supply a vacancy to the office of the arbitrator may repeat any hearings previously held.

11. Order or ruling of previous arbitrator not invalid

An order or ruling of the arbitrator made prior to the termination of his mandate shall not be invalid solely because his mandate has been terminated; provided that when the termination has been effected pursuant to Byelaw (8)(d), the order or ruling of the arbitrator made prior to termination of his mandate shall become invalid unless otherwise agreed upon by the parties.

12. Interim arbitral award and interim measures ordered by the arbitrator

The arbitrator may be empowered to make an interim arbitral award as well as to provide interim measures of protection. An arbitrator may require a party to provide appropriate security in connection with an interim measure.

13. Appearance in arbitral proceedings by counsel, attorney or advocate

In arbitral proceedings where both the parties are Clearing Members, the parties shall not be permitted to appear by counsel, attorney or advocate but where one of the parties is a Constituent, and then the Constituent shall be permitted to appear by counsel, attorney or advocate. If the Constituent chooses to appear by counsel, attorney or advocate, then the Clearing Member shall be granted a similar privilege.

14. EXPEDITIOUS DISPOSAL OF ARBITRATION CASES

(a) Time for appointment of Arbitrator

Where an arbitration application is made, the appointment of arbitrator or panel of arbitrators, shall be completed within thirty days of receipt of the application.

(b) Adjournment

Adjournment, if any, shall be granted by the arbitrator only in exceptional cases, for bonafide reasons to be recorded in writing.

(c) Time for Completion of Arbitration

The arbitrator(s) shall conclude the arbitration reference within four months from the date of their appointment, by issuance of an arbitral award.

(d) Request for extension

The time for making an arbitral award may be extended for a total period not exceeding two months by Relevant Authority on an application by either party or the arbitrator(s), for sufficient cause to be recorded in writing.

15. Implementation of Arbitral Award

Notwithstanding anything contained in the Bye-laws, in cases where the arbitral award or appellate arbitral award is passed against the Clearing Member and in favour of a Constituent, the Clearing Corporation shall debit from the deposits or other monies of the Clearing Member lying with the Clearing Corporation, the amount of award payable to the awardee together with interest payable, if any, till the date of debit after setting off the counter claim of the Clearing Member and /or its Constituent allowed under the award, if any, and keep aside the said amount in a separate account to be dealt with in such manner as mentioned in Bye-laws II(16B) and II(17) of Chapter X.

Provided however, where the award is for the delivery of securities, the Clearing Corporation may consider the closing price of such securities on the Specified Exchange

as on the date of the award or such other date as the Relevant Authority may specify to be reasonable, stating reasons for arriving at the value of such securities and award amount.

16. Payment of Debited Amount

- (a) Arbitral Award:- Where the Clearing Member chose not to prefer an appeal under Bye-law 19 within the time permissible there under, the amount debited under Bye-law 15 shall be paid, together with the interest earned thereon, to the awardee.
- (b) Appellate Arbitral Award:- Where an appeal is preferred by the Clearing Member under Bye-law II(22) and the appellate arbitral tribunal makes an appellate arbitral award against the Clearing Member the Clearing Corporation shall pay the awarded amount to the awardee from the amount debited under Bye-law II(15):-

(i) where no application is made by the Clearing Member under Section 34 of the Arbitration and Conciliation Act, 1996 to challenge such arbitral award within the limitation period for making such application, upon expiry of such limitation period;

(ii) where such an application is made by the Clearing Member, and no stay is granted by the court within three months from the date of receipt of appellate arbitral award by him, upon completion of such three months;

(iii) in any other case, upon dismissal of the application by the court.]

17. Reversal of Debit in Certain Cases

Where the arbitral award or the appellate arbitral award against the Clearing Member has been set aside or has been modified by reduction of awarded amount, and such setting aside or modification has attained finality, the Clearing Corporation may reverse the debit, in full or in part, as the case may be, and pay the reduced amount, if any, to the awardee.

18. Arbitration proceedings subject to the provisions of the Act

The arbitration proceedings as provided for by the provisions of these Byelaws and Regulations shall be subject to the provisions of the Act to the extent not provided for in these Byelaws or the Regulations.

19. Construction of references

For the purposes of section 2(6) of the Act, in all claims, differences or disputes which are required to be submitted to arbitration as per the provisions of these Byelaws and the Regulations, wherever Part A of the Act leaves the parties free to determine a certain issue, the parties shall be deemed to have authorised the Relevant Authority to determine that issue.

20. Administrative assistance

For the purpose of section 6 of the Act, in all claims, differences or disputes which are required to be submitted to arbitration as per the provisions of these Byelaws and Regulations, the parties shall be deemed to have arranged for administrative assistance of the Relevant Authority in order to facilitate the conduct of the arbitral proceedings.

21. Jurisdiction

All parties to a reference to arbitration under these Byelaws and Regulations and the persons, if any, claiming under them, shall be deemed to have submitted to the exclusive jurisdiction of the courts in Mumbai or any other court as may be prescribed by the Relevant Authority for the purpose of giving effect to the provisions of the Act.

22. Appellate Arbitration

Any party aggrieved by an arbitral award made under these Bye-laws shall have a right of appeal, in terms of the following:-

- (a) A party aggrieved by an arbitral award may appeal against such award to the appellate panel of arbitrators to be constituted by the Clearing Corporation within one month from the date of receipt of arbitral award.
- (b) The Relevant Authority shall thereupon constitute an appellate panel consisting of three arbitrators who shall be different from the ones who passed the arbitral award appealed against.
- (c) Such constitution of appellate panel of arbitrators shall be completed by Relevant Authority within thirty days from the date of receipt of the appeal.
- (d) The appeal shall be disposed of within three months from the date of appointment of appellate panel of arbitrators, through issuance of an appellate arbitral award.
- (e) The time for making an appellate arbitral award may be extended for a total period not exceeding two months by the Relevant Authority on an application by either party or the appellate panel of arbitrators, for sufficient cause to be recorded in writing.
- (f) A party aggrieved by the appellate arbitral award may file an application to the Court of competent jurisdiction to challenge the appellate award in accordance with Section 34 of the Arbitration and Conciliation Act, 1996.
- (g) Except where specific provision is made in this Bye-law, the provisions of Bye-laws II(4) to II(21) and the Regulations shall, so far as may be, apply to appellate arbitrators, appellate arbitration proceedings and appellate arbitral award.

III. The provisions of Byelaws (I) & (II) shall become applicable to all claims, differences, disputes between the parties mentioned therein for all dealings, contracts and transactions admitted for clearing and settlement on the Clearing Corporation in respect of Commodity Derivative Segment and made subject to the byelaws, rules and regulations provided such dealings, contracts and transactions had been entered into between the parties mentioned therein prior to or to the date on which the Clearing Member was either declared a defaulter or expelled or has surrendered his trading membership.

CHAPTER XI DEFAULT

1. DECLARATION OF DEFAULT

A clearing member may be declared a defaulter by direction/circular/notification of the relevant authority of the segment if:

- (1) he is unable to fulfill his clearing or settlement obligations; or
- (2) he admits or discloses his inability to fulfill or discharge his duties, obligations and liabilities; or
- (3) the Clearing Member fails to make any payment required to be made under or pursuant to these Bye-Laws Rules and the Regulations or Circulars issued by the Relevant Authority from time to time. Payments may include without limitation any payment towards the Clearing Members' Pay-in obligations in respect of any of the Clearing Segments to which it has been admitted, fees, transaction charges, fines or its clearing and settlement obligations relating to any of the Clearing Segments including delivery of the underlying relating to a Security, security deposit, Margins, Daily Settlement Amount, Final Settlement Amount, contribution to the Settlement Guarantee Fund, or any other dues to the Clearing Corporation, SEBI or any other Statutory agency;
- (4) the Clearing Member fails to make a valid delivery of the underlying asset at the time and place specified by the Relevant Authority or take delivery of the underlying asset relating to performance of a Deliverable Contract, or for the purpose of satisfying its Clearing and Settlement obligations with respect to any of the Clearing segments of the Clearing Corporation to which the Clearing Member is admitted;

- (5) the Clearing Member is in violation of its Membership undertaking give to Clearing Corporation
- (6) the Clearing Member defaults on any other obligation under these Bye-Laws and the Regulations made thereunder and the Rules of the Clearing Corporation which, if capable of being remedied, is not remedied to the satisfaction of the Relevant Authority within the time specified by the Relevant Authority for such rectification;
- (7) an application, in any jurisdiction, is filed or an order made for the winding up, dissolution, bankruptcy, management or administration of the Clearing Member or similar events or an assignment or composition is made by the Clearing Member for the benefit of its creditor(s);
- (8) any representation, warranty or document made or submitted by a Clearing Member in its Membership application was known to the Clearing Member to be wrong or false or has become false in any material respect;
- (9) the Clearing Member or any of its Principal officers, employees, contractors, agents, representatives or Clients, is in violation of an applicable law or regulation governing its business and affairs;
- (10) the Clearing Member or any of its employees or agents is charged in any court of law in connection with an offence involving fraud or dishonesty, whether within or outside India;
- (11) he fails or is unable to pay within the specified time the damages and the money difference due on a closing-out effected against him under the Rules, Bye Laws and Regulations; or
- (12) he fails to pay any sum due to the Clearing Corporation as the relevant authority may from time to time prescribe; or
- (13) he fails to pay or deliver all moneys, securities and other assets due to a clearing member who has been declared a defaulter within such time of declaration of default of such clearing member in such manner and to such person as the relevant authority may direct; or
- (14) he fails to abide by the arbitration award as laid down under the Rules, Bye Laws and Regulations; or
- (15) the Clearing Member (or any of the Clearing Member's officers, employees, Clients, contractors, agents,) is in violation or deemed violation of any of these Bye-Laws, Regulations and the Rules in respect of any of the Clearing Segments to which the Clearing Member has been admitted;
- (16) any similar event that would affect the business and the financial condition of the Clearing Member (including its ability to pay debts as and when they fall due) and its affairs with the Clearing Corporation, or
- (17) If he, being an individual and/ or Partnership firm, has been adjudicated as an insolvent or it, being a Company incorporated under the Companies Act, has been ordered to be wound up by a court of law in the petition filed by any of his creditors, as the case may be, he/ it shall ipso facto be declared a defaulter though he/ it may not have at the same time defaulted on any of his/ its obligations on the Clearing Corporation.
- (18) If he, being an individual and/ or Partnership firm, / it, being a Company incorporated under the Companies Act, files a petition before a Court of law for adjudication of himself as an insolvent or for its winding up, as the case may be, he/ it shall ipso facto be declared a defaulter though he/ it may not have at the same time defaulted on any of his/ its obligations on the Clearing Corporation.
- (19) under any other circumstances as may be decided by the relevant authority from time to time.

2. Where the clearing member is declared defaulter on any Clearing Segment of the Clearing Corporation, he shall also be immediately declared defaulter on all other Clearing Segments of the Clearing Corporation in which he may hold membership.

3. Without prejudice to the foregoing provisions contained in Byelaw (1) of this chapter, where a clearing member, who is also a member/ trading member of any of the recognised Stock Exchanges or a clearing member of any clearing corporation, is declared a defaulter by such Stock Exchange or clearing corporation, the said clearing member shall ipso facto stand declared a defaulter by the Relevant Authority across all the Clearing Segments.
4. On a clearing member being declared defaulter, the relevant authority may take appropriate action against the associates of such defaulter member.

Explanation 1: For the purpose of this Bye-law, the term "associate" shall include a person, -

- a. who, directly or indirectly, by itself, or in combination with other persons, exercises control over the member, whether individual, body corporate or firm or holds substantial share of not less than 15% in the capital of such member; or
- b. in respect of whom the member, individual or body corporate or firm, directly or indirectly, by itself or in combination with other persons, exercises control; or
- c. whose director or partner is also a director or partner of the member, body corporate or the firm, as the case may be.

Explanation 2: The expression "control" shall have the same meaning as defined in clause (c) of sub-regulation (1) of regulation 2 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

5. Notwithstanding anything contained in the Byelaws and Rules of Clearing Corporation, if a clearing member is an Associate of a member/ trading member declared a defaulter by any recognised stock exchange, the said clearing member shall render itself liable to be declared a defaulter by the Relevant Authority

Explanation: The expression „Associate" for the purpose of the above Byelaw shall have the meaning as may be defined by SEBI from time to time."

6. CLEARING MEMBER'S DUTY TO INFORM

A clearing member shall be bound to notify the Clearing Corporation immediately if there be a failure by any clearing member to discharge his liabilities in full.

7. COMPROMISE FORBIDDEN

A clearing member shall not accept from any clearing member any thing less than a full and bona fide money payment in settlement of a debt arising out of a deal cleared through the Clearing Corporation.

8. NOTICE OF DECLARATION OF DEFAULT

On a clearing member being declared a defaulter, a notice shall be forthwith issued to all the clearing members of the Clearing Corporation.

5. NOTICE TO THE STOCK EXCHANGE

On a clearing member being declared a defaulter, a notice shall be forthwith issued to the Exchange if the clearing member is also a trading member of that Exchange.

9. DEFAULTER'S BOOKS AND DOCUMENTS

When a clearing member has been declared a defaulter the relevant authority shall take charge of all his books of accounts, documents, papers and vouchers to ascertain the state of his affairs and the defaulter shall hand over such books, documents, papers and vouchers to the relevant authority.

10. LIST OF DEBTORS AND CREDITORS

The defaulter shall file with the relevant authority within such time of the declaration of his default as the relevant authority may direct, a written statement containing the complete list of his debtors and creditors and the sum owed by and to each.

11. DEFAULTER TO GIVE INFORMATION

The defaulter shall submit to the relevant authority such statement of accounts, information and particulars of his affairs as the relevant authority may from time to time require and if so desired shall appear before the relevant authority at its meetings held in connection with his default.

12. INQUIRY

The relevant authority may conduct a strict inquiry into the accounts and dealings of the defaulter in the market and shall report anything improper, un-businesslike or unbecoming a clearing member in connection therewith which may come to its knowledge.

13. DEFAULTER'S ASSETS

The relevant authority shall call in and realise the security deposits in any form, margin money, other amounts lying to the credit of and securities deposited by the defaulter and recover all moneys, securities and other assets due, payable or deliverable to the defaulter by any other Clearing Member in respect of any deal or dealing made subject to the Bye-laws, Rules and Regulations of the Clearing Corporation and such assets shall vest ipso facto, on declaration of any clearing member as a defaulter, in the Clearing Corporation for the benefit of and on account of the Clearing Corporation, Exchange, Securities and Exchange Board of India, other clearing members, Constituents of the defaulter, approved banks and any other persons as may be approved by the relevant authority and other recognised stock exchanges / clearing corporation.

14. PAYMENT TO RELEVANT AUTHORITY

- (1) All monies, securities and other assets due, payable or deliverable to the defaulter must be paid or delivered to the relevant authority within such time of the declaration of default as the relevant authority may direct. A clearing member violating this provision may be declared a defaulter.
- (2) A clearing member who shall have received a difference on account or shall have received any consideration in any deal prior to the date fixed for settling such account or deal shall, in the event of the clearing member from whom he received such difference or consideration being declared a defaulter, refund the same to the relevant authority for the benefit and on account of the creditor members. Any clearing member who shall have paid or given such difference or consideration to any other clearing member prior to such settlement day shall again pay or give the same to the relevant authority for the benefit and on account of the creditor member in the event of the default of such other member.
- (3) A clearing member who receives from another clearing member during any clearing a claim note or credit note representing a sum other than difference due to him or due to his constituent which amount is to be received by him on behalf and for the account of that constituent shall refund such sum if such other clearing member be declared a defaulter within such number of days as prescribed by the relevant authority after the settling day. Such refunds shall be made to the relevant authority for the benefit and on account of the creditor members and it shall be applied in liquidation of the claims of such creditor members whose claims are admitted in accordance with the Rules, Bye Laws and Regulations.

15. DISTRIBUTION

The relevant authority shall at the risk and cost of the creditor members pay all assets received in the course of realisation into such bank and/or keep them with the Clearing Corporation in such

names as the relevant authority may from time to time direct and shall distribute the same in accordance with the Rules, Bye Laws and Regulations.

16. CLOSING -OUT

- (1) Clearing members having open deals with the defaulter shall close out such deals after declaration of default. Such closing out shall be in such manner as may be prescribed by the relevant authority from time to time. Subject to the regulations in this regard prescribed by the relevant authority, when in the opinion of the relevant authority, circumstances so warrant, such closing out shall be deemed to have taken place in such manner as may be determined by the relevant authority.
- (2) Differences arising from the above adjustments of closing out shall be claimed from the defaulter or paid to the relevant authority for the benefit of creditor clearing members of the defaulter.

17. CLAIMS AGAINST DEFAULTER

Within such time of the declaration of default as the relevant authority may direct every clearing member carrying on business on the Clearing Corporation shall, as it may be required to do, either compare with the relevant authority his accounts with the defaulter duly adjusted and made up as provided in the Rules, Bye-Laws and Regulations or furnish a statement of such accounts with the defaulter in such form or forms as the relevant authority may prescribe or render a certificate that he has no such account.

18. DELAY IN COMPARISON OR SUBMISSION OF ACCOUNTS

Any clearing member failing to compare his accounts or send a statement or certificate relating to a defaulter within the time prescribed shall be called upon to compare his accounts or send such statement or certificate within such further time as may be specified.

19. PENALTY FOR FAILURE TO COMPARE OR SUBMIT ACCOUNTS

The relevant authority may take such action as it may deem fit including levying of fine and suspension on any clearing member who fails to compare his accounts or submit a statement of its account with the defaulter or a certificate that he has no such account within the prescribed time.

20. MISLEADING STATEMENT

The relevant authority may take such action as it may deem fit including levying of fine and suspension, if it is satisfied that any comparison statement or certificate relating to a defaulter sent by such clearing member was false or misleading.

21. ACCOUNTS OF RELEVANT AUTHORITY

The relevant authority shall keep a separate account in respect of all monies, securities and other assets payable to a defaulter which are received by it and shall defray therefrom all costs, charges and expenses incurred in or about the collection of such assets or in or about any proceedings it takes in connection with the default.

22. Report

The Defaulters' Committee shall every six months present a report to the relevant authority relating to the affairs of a defaulter and shall show the assets realised, the liabilities discharged and dividends given.

23. Inspection of Accounts

All accounts kept by the Defaulters' Committee in accordance with these Bye Laws, Rules and Regulations shall be open to inspection by any creditor clearing member.

24. Scale of Charges

The charges to be paid to the Clearing Corporation on the assets collected shall be such sum as the relevant authority may from time to time prescribe.

25. APPLICATION OF ASSETS

The relevant authority shall apply the net assets remaining in its hands after defraying all such costs, charges and expenses as are allowed under the Rules, Byelaws and Regulations to be incurred by the Clearing Corporation, in satisfying the claims in the order of priority provided hereunder

- (a) **Dues to the Clearing Corporation, Concerned Exchange , Securities and Exchange Board of India** The payment of such subscriptions, debts, fines, fees, charges and other moneys due to Clearing Corporation, Concerned Exchange and Securities and Exchange Board of India, in the order in which their names appear herein.
- (b) **Dues to other Clearing Members and to constituents of the defaulter:** The payments as may be admitted by the relevant authority, as being due to other Clearing members and constituents of the defaulter for debts, liabilities, obligations and claims arising out of any contracts made by the defaulter subject to the Rules, Bye- laws and Regulations of the Clearing Corporation, provided that if the amount is insufficient then the amounts shall be distributed prorata amongst other clearing members and all the constituents of the defaulter. The other Clearing members shall in turn share the amount so received with their Constituents on pro rata basis.
- (c) **Dues to the Approved Banks and claims of any other persons as approved by the Relevant Authority:** After making payments under (b) above, the amounts remaining, if any, shall be utilised to meet the claims of the approved banks and of any other person as may be admitted by the Relevant Authority. The claims of the approved banks should have arisen by virtue of Clearing Corporation or Concerned Exchange invoking any bank guarantee issued by the bank concerned to the Clearing Corporation or Concerned Exchange as the case may be on behalf of the defaulter to fulfill his obligation of submitting bank guarantee, guaranteeing discharge of obligations under the Byelaws, Rules and Regulations of Clearing Corporation / Concerned Exchange. The claims of other persons should have arisen out of or incidental to the clearing and settlement of a deal on the Clearing Corporation or requirements laid down by the Clearing Corporation, provided that if the amount available be insufficient to pay all such claims in full, they shall be paid pro rata.
- (d) **Dues to any other recognized stock exchange/clearing corporation:** After meeting the claims under (c) above, the remaining amounts, if any, shall be disbursed to any other recognised stock exchange / clearing corporation for the purpose of meeting the obligations of the defaulter as a member of that exchange/clearing corporation. If the defaulter is a member of more than one recognised stock exchange/clearing corporation, then the remaining amounts shall be distributed amongst all such recognized stock exchanges / clearing corporations and if the remaining amount is insufficient to meet the claims of all such stock exchanges/clearing corporations, then the remaining amount shall be distributed pro rata among all such stock exchanges.
- (e) **Surplus:** The surplus amounts, if any, remaining after meeting all the above claims, shall be paid to the Clearing Member and in case where the Clearing member has expired, the surplus amount shall be paid to his legal heirs / legal representatives.

26. CERTAIN CLAIMS NOT TO BE ENTERTAINED

The relevant authority shall not entertain any claim against a defaulter –

- (1) which arises out of a contract in securities, dealings in which are not permitted or which are not made subject to Bye Laws, Rules and Regulations of the Clearing Corporation or in which the claimant has either not paid himself or colluded with the defaulter in evasion of margin payable on bargains in any security;
- (2) which arises out of a contract in respect of which comparison of accounts has not been made in the manner prescribed in the Rules, Bye Laws and Regulations or when there has been no comparison if a contract note in respect of such deals has not been rendered as provided in the Rules, Bye Laws and Regulations;
- (3) which arises from any arrangement for settlement of claims in lieu of bonafide money payment in full on the day when such claims become due;
- (4) which is in respect of a loan with or without security;
- (5) which is not filed with the relevant authority within such time of date of declaration of default as may be prescribed by the relevant authority.

27. CLAIMS OF RELEVANT AUTHORITY

A claim of a defaulter whose estate is represented by the relevant authority against another defaulter shall not have any priority over the claims of other creditor clearing members but shall rank with other claims.

28. ASSIGNMENT OF CLAIMS ON DEFAULTER'S ESTATE

A Clearing member being a creditor of a defaulter shall not sell, assign or pledge the claim on the estate of such defaulter without the consent of the relevant authority.

29. PROCEEDINGS IN THE NAME OF OR AGAINST DEFAULTER

The Relevant Authority shall be empowered to (a) initiate any proceedings in a court of law either in the name of the Clearing Corporation or in the name of the defaulter against any person for the purpose of recovering any amounts due to the defaulter (b) initiate any proceedings in a court of law either in the name of Clearing Corporation or in the name of the creditors (who have become creditors of the defaulter as a result of deals cleared and settled subject to Byelaws, Rules and Regulations of the Clearing Corporation) of the defaulter against the defaulter for the purpose of recovering any amounts due from the defaulter. The defaulter as well as the creditors of the defaulter shall be deemed to have appointed the Clearing Corporation as their constituted attorney for the purpose of taking such proceedings.

30. PAYMENT OF RELEVANT AUTHORITY

If any clearing member takes any proceedings in a court of law against a defaulter whether during the period of its default or subsequent to its re- admission to enforce any claim against the defaulter's estate arising out of any admitted deals in the market made subject to the Bye Laws, Rules and Regulations of the Clearing Corporation before it was declared a defaulter and obtains a decree and recovers any sum of money thereon, it shall pay such amount or any portion thereof as may be fixed by the relevant authority for the benefit and on account of the creditor members having claims against such defaulter.

**CHAPTER XII
CORE SETTLEMENT GUARANTEE FUND**

1. OBJECTIVE OF THE CORE SETTLEMENT GUARANTEE FUND (CSGF)

The Clearing Corporation shall have a fund called Core Settlement Guarantee Fund (CSGF) for each clearing segment with respect to each segment of the Specified Exchange to guarantee the settlement of trades executed in the respective segment of the Specified Stock Exchange. In the event a Clearing Member fails to fulfil the settlement obligations, the CSGF shall be used to fulfil the settlement obligations of the Clearing Member and complete the settlement without affecting the normal settlement process.

2. CORPUS OF THE CSGF

(1) The corpus of the CSGF shall be adequate to meet out all the contingencies arising on account of failure of any Clearing Member(s).

(2) The quantum of the corpus of the CSGF shall be determined by taking into consideration the risk or liability to the CSGF on account of various factors including trade volume, delivery percentage, maximum settlement liability of the Clearing Members, the history of defaults of the Clearing Members, capital adequacy of the Clearing Members and the degree of safety measures employed by the Clearing Corporation. In order to assess the fair quantum of the corpus of the CSGF, the Clearing Corporation shall consider the following factors:

- Risk management system in force
- Current and projected volume/turnover to be cleared and settled by the Clearing Corporation on guaranteed basis
- Track record of defaults of the Clearing Members (number of defaults and amount in default of the Clearing Members)

3. MINIMUM REQUIRED CORPUS OF THE CSGF

The Relevant Authority shall specify from time to time the Minimum Required Corpus (MRC) of the CSGF for each clearing segment of the Clearing Corporation with respect to each segment of the Specified Exchange in accordance with the norms prescribed by SEBI from time to time.

4. CONSTITUTION OF THE CORPUS OF CSGF

The corpus of CSGF shall consist of the following:

- Contributions of various contributors:

The contributions of various contributors to the CSGF at any point of time shall be as follows:

i. **Clearing Corporation's contribution:** The Clearing Corporation's contribution to CSGF shall be at least 50% of the MRC. The Clearing Corporation shall make this contribution from its own funds. The Clearing Corporation's contribution to CSGF shall be considered as part of its net worth.

ii. **Specified Exchange's contribution:** The Specified Exchange's contribution to CSGF shall be at least 25% of the MRC of each Clearing segment. Such contribution can be adjusted against the transfer of profit by the Specified Exchange as per Regulation 33 of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 (SECC Regulations).

iii. **Clearing Member's primary contribution:** The Clearing Corporation may seek risk based contribution from Clearing Members of the clearing segment to the CSGF subject to the following conditions:

- The total contribution from the Clearing Members shall not be more than 25% of the MRC. Such contribution shall ordinarily be in the form of cash contribution to CSGF. However, the Clearing Corporation may accept the Clearing Member's contribution in the form of bank fixed deposits in accordance with the norms prescribed by SEBI from time to time.
 - No exposure shall be available on CSGF contribution of any Clearing Member. For this purpose, the exposure-free collateral of the Clearing Member available with the Clearing Corporation can be considered towards CSGF contribution of the Clearing Member.
 - The required contribution of each Clearing Member shall be pro-rata based on the risk that they bring to the system.
 - The Clearing Corporation shall have the flexibility to collect the Clearing Member's primary contribution either upfront or staggered over a period of time. In case of staggered contribution, the remaining balance shall be met by the Clearing Corporation to ensure adequacy of total CSGF corpus at all times. Such Clearing Corporation contribution shall be available to the Clearing Corporation for withdrawal as and when further contributions from the Clearing Members are received.
- Any penalties levied by the Clearing Corporation (as per Regulation 34 of SECC Regulations.)
 - Interest on cash contribution to CSGF shall accrue to the CSGF and pro-rata attributed to the contributors in proportion to their cash contribution.

5. MANAGEMENT OF CSGF

(1) The Defaulters' Committee/SGF utilization Committee of the Clearing Corporation shall manage the CSGF.

(2) The Clearing Corporation shall follow prudential norms of investment policy for the CSGF corpus and establish and implement policies and procedures to ensure that the CSGF corpus is invested in accordance with the investment norms prescribed by SEBI from time to time.

6. ACCESS TO CSGF

The Clearing Corporation may utilise the CSGF in the event of a failure of the Clearing Members to fulfil their settlement obligations.

7. FURTHER CONTRIBUTION TO / RECOUPMENT OF CSGF

(1) The requisite contributions to the CSGF by various contributors for any month shall be made by the contributors before start of the month.

(2) The Clearing Corporation shall review and determine by 15th of every month the adequacy of contributions made by various contributors as above and call for any further contributions to the CSGF as may be required to be made by various contributors for the next month.

(3) In the event of usage of the CSGF during a calendar month, the contributors shall, as per usage of their individual contribution, immediately replenish the CSGF to MRC.

(4) In case there is failure on part of some contributor(s) to replenish its (their) contribution, the same shall be immediately met, on a temporary basis during the month, in the following order:

- a) By Clearing Corporation
- b) By Specified Exchange

8. DEFAULT WATERFALL

The Default waterfall shall become applicable only in case the Clearing Member is declared a defaulter after appropriation of the monies of the defaulting Clearing Member.

The default waterfall of the Clearing Corporation for any clearing segment shall generally follow the following order –

- a) Monies of the defaulting Clearing Member (including the defaulting Clearing Member's primary contribution to the CSGF(s) and excess monies of the defaulting Clearing Member in other clearing segments.)
- b) Insurance, if any.
- c) Clearing Corporation resources (equal to 5% of the clearing segment MRC).
- d) CSGF of the clearing segment in the following order:
 - i. Penalties
 - ii. Clearing Corporation's contribution to the extent of at least 25% of the clearing segment MRC
 - iii. Remaining CSGF: Clearing Corporation's contribution, Specified Exchange's contribution and non-defaulting Clearing Members' primary contribution to CSGF on pro-rata basis.
- e) Proportion of remaining Clearing Corporation resources (excluding Clearing Corporation's contribution to CSGFs of other clearing segments and INR 100 Crore) equal to ratio of clearing segment MRC to sum of MRCs of all clearing segments.*
- f) Clearing Corporation/Specified Exchange contribution to CSGF of other clearing segments (after meeting obligations of those clearing segments) and remaining Clearing Corporation resources to that extent as approved by SEBI.
- g) Capped additional contribution by non-defaulting Clearing Members of the clearing segment.**
- h) Any remaining loss to be covered by way of pro-rata haircut to pay-outs. ***

Explanation

- 1. * INR 100 Crore to be excluded only when remaining Clearing Corporation resources (excluding Clearing Corporation contribution to CSGFs of other clearing segments) are more than INR 100 Crore.
- 2. **Clearing Corporation shall limit the liability of non-defaulting Clearing Members towards additional contribution to a multiple of their required primary contribution to CSGF and the framework regarding the same shall be disclosed. In case of shortfall in recovery of assessed amounts from non-defaulting Clearing Members, further loss can be allocated to layer 'f' with approval of SEBI.

3. ***In case loss allocation is effected through haircut to payouts, any subsequent usage of funds shall be with prior SEBI approval. Further, any exit by Clearing Corporation post using this layer shall be as per the terms decided by SEBI in public interest.

9. STRESS TESTING AND BACK TESTING

The Clearing Corporation shall conduct stress tests for credit risk, liquidity stress test, reverse stress test, back testing for adequacy of margins and such other tests as may be appropriate in accordance with the norms prescribed by SEBI from time to time.

CHAPTER XIII MISCELLANEOUS

1. Save as otherwise specifically provided in the Bye Laws and Regulations prescribed by the relevant authority regarding clearing and settlement arrangement, in promoting, facilitating, assisting, regulating, managing and operating the Clearing Corporation, the Clearing Corporation should not be deemed to have incurred any liability, and accordingly no claim or recourse in respect of or in relation to any dealing in securities or any matter connected therewith shall lie against the Clearing Corporation or any authorised person(s) acting for the Clearing Corporation.
2. No claim, suit, prosecution or other legal proceeding shall lie against the Clearing Corporation or any authorised person(s) acting for the Clearing Corporation in respect of anything which is in good faith done or intended to be done in pursuance of any order or other binding directive issued to the Clearing Corporation under any law or delegated legislation for the time being in force.

Place : Mumbai,
Dated : 29th August 2018.

AVNI PATEL,
Company Secretary.

Serial No. M-18170

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION No. 762 OF 2014.

In the matter of the Companies Act, 1956 ;

AND

In the matter of sections 433(e), 434 read with
439 of the Companies Act, 1956 ;

AND

In the matter of Gili India Limited, having its
registered office at Office No.6, B Wing,
1st Floor, Laxmi Towers, Bandra-Kurla
Complex, Bandra (East), Mumbai 400 051,
Maharashtra, India.

Aanchal Collection Limited

a company duly incorporated
under the provisions of Companies
Act, 1956 and having its registered
Office at P- 29, C.I.T. Road, Scheme
XIIM, Kankurgachi, Kolkata 700 054.

... *Petitioner*

Notice of Advertisement of Petition

Notice is hereby given that the Petition for winding up of the abovementioned Company by the Hon'ble Court of Bombay was on July 17, 2014 presented by the Petitioners abovenamed, Creditors of the Company and the said Petition stands admitted in pursuance of the Court order dated June 12, 2018, the same is now fixed for hearing before the Company Judge on August 31, 2018 at 11-00 am in the forenoon or soon thereafter.

ANY CREDITOR, CONTRIBUTORY OR OTHER PERSON desirous of supporting or opposing the making of an order on the said Petition, should send to the Petitioner or his Advocate at his office address mentioned hereunder, a Notice of his intention signed by him or his Advocate with full name and address, so as to reach the Petitioner or his Advocate not later than five days before the date fixed for hearing of the Petition and appear at the hearing for the purpose in person or by his Advocate.

A copy of the Petition will be furnished by the undersigned to any creditor or contributory on payment of the prescribed charged for the same.

Any affidavit intended to be used in opposition to the Petition, should be filed in Court and a copy served on the Petitioner's Advocate, not less than five days before the date fixed for the hearing.

Dated this 16th day of August, 2018.

*For M/S. AURIS LEGAL, ADVOCATES,
Advocates for the Petitioner.*

401, 4th Floor, Ararat Bldg.,
Nagindas Master Road,
Fort, Mumbai 400 001